

THE GOVERNMENT OF IOWA

FRANK E. HORACK



UNIVERSITY OF CALIFORNIA
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THE GOVERNMENT OF IOWA

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BY

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TO THE MEMORY OF MY MOTHER

HISTORY

Print

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PREFACE.

IN the preparation of this book it has not been the author's purpose to write an exhaustive treatise on the Constitutional Law of Iowa. On the contrary, he has aimed in these pages to give a narrative and descriptive account of the government of Iowa, divorced as far as possible from legal verbiage and prosaic references to articles, titles, chapters, sections, and paragraphs of Constitution, Code, and Statutes. For the convenience of students and teachers who desire the exact wording of the State Constitution, the text of that instrument has been added in an Appendix.

The tendency, in recent years, of constitution makers to limit the powers of the legislature by incorporating numerous and often non-essential subjects in the Constitution has made many of our State Constitutions lengthy documents. Sometimes we find jumbled up with the outline of the framework of the government subjects which have no place in a written Constitution. Where such provisions occur in the Constitution of Iowa, they have frequently been passed over by the author as unimportant in the study of Iowa government. Moreover, our State Constitution is not altogether systematic in its arrangement. Sometimes the same subject is referred to in several places.

By the adoption of the topical method it is believed that a more convenient arrangement for study has been provided.

Wherever statutory legislation has supplemented constitutional provisions herein considered, the author has endeavored so far as practicable to make use of such material. Some of the newer institutional forms of democracy which have recently been enacted into law, such as the primary election, the commission plan of city government, and the like, have been included in the discussion. Statutory provisions are, of course, subject to change at any session of the General Assembly; and so, a text-book on State and local government must always be supplemented by legislation enacted subsequent to its publication.

The purpose of the author has been to explain both the organization and the functions of government. Nor has he hesitated to express freely his own opinions relative to the organization or activities of the State. Teachers and students alike must always bear in mind the fact that government in the United States is popular government, and that changes in organization and administration are constantly being made to meet the most recent demands of the people. The old notion that the individual exists for the State has been discarded: we now say that the State exists for the individual. Government is a very human institution and at every point the human element is apparent. It should be the duty of the teacher to instil sound notions of public morality, to teach both the spirit and the letter of the law, and to encourage the pupil to observe for himself the actual workings of government so

that he may ever after take an intelligent and high-minded interest in public affairs.

The author is especially indebted to Professor Benjamin F. Shambaugh, Head of the Department of Political Science in the State University of Iowa, for his many valuable suggestions during the preparation of this book, and for his critical reading of the entire manuscript. Furthermore, the *Maps Illustrative of the Boundary History of Iowa* were compiled by Professor Shambaugh in connection with an article written by him for *The Iowa Journal of History and Politics*. The maps are copyrighted by the State Historical Society of Iowa and are reproduced here by permission of the Society.

The plates for the map showing the accessions of territory from the Indians, made for the Iowa Census of 1905, were kindly loaned by Hon. A. H. Davison, Secretary of the Executive Council of Iowa. Professor John E. Brindley of Ames kindly read and revised the chapter on taxation, and Professor Forrest C. Ensign, State High School Inspector, gave many helpful suggestions in reference to our school system. To Dr. Dan E. Clark, Assistant Editor for the State Historical Society of Iowa, I am deeply indebted for the excellent index to this volume, and for his careful and expert proof reading. To many others who have given me encouragement and assistance, I am likewise much indebted.

FRANK EDWARD HORACK.

The State University of Iowa,
Iowa City, Iowa,

1911.

PREFACE TO THE SECOND EDITION.

THE State of Iowa has generally been rated as a conservative commonwealth. It has been slow to undertake radical or untried political experiments, yet in the ten years which have elapsed since the first edition of this book was printed a great many important changes have been made in the statute law of the State. Most of these changes have been progressive, but a few have been reactionary.

The increase in the cost of living is reflected in the increased cost of government, for practically every official and employee of the State has received a considerable advance in compensation since the first edition of this book was printed.

In submitting a revised edition of *The Government of Iowa*, the author has not only endeavored to make the necessary changes in the original text but he has also added much new material of prime importance.

A new feature has been introduced at the end of each chapter in the form of select references covering the subject-matter of the chapter. These references are intended largely for the teacher, but many of them may also be assigned to pupils for outside reading. These references have been taken chiefly from the publications of the State

Historical Society of Iowa for two reasons: first, because the publications of the Society are prepared with great care and may be relied upon as accurate, and second, because their publications can be found in practically every public library in the State of Iowa.

FRANK EDWARD HORACK.

The State University of Iowa,
Iowa City, Iowa,
1921.



CONTENTS.

| CHAPTER | PAGE |
|---|------|
| I. THE LAND AND RESOURCES | 1 |
| II. POPULATION AND ETHNIC ELEMENTS | 6 |
| III. EARLY HISTORY AND EXPLORATIONS | 13 |
| IV. THE FOUNDATIONS OF GOVERNMENT IN IOWA | 22 |
| V. THE ORGANIC ACT AND CONSTITUTIONS OF IOWA | 26 |
| VI. OUR CIVIL RIGHTS | 35 |
| VII. SUFFRAGE, ELECTIONS, PARTY MACHINERY | 43 |
| VIII. THE LEGISLATIVE DEPARTMENT | 53 |
| IX. THE HOUSE OF REPRESENTATIVES, OR LOWER HOUSE | 62 |
| X. THE SENATE, OR UPPER HOUSE | 71 |
| XI. THE EXECUTIVE DEPARTMENT | 75 |
| XII. ADMINISTRATIVE OFFICERS, BOARDS, AND COMMISSIONS | 89 |
| XIII. THE JUDICIAL DEPARTMENT | 109 |
| XIV. THE COUNTY AND ITS GOVERNMENT | 116 |
| XV. THE CIVIL TOWNSHIP AND ITS GOVERNMENT | 126 |
| XVI. THE GOVERNMENT OF CITIES AND TOWNS | 129 |
| XVII. AMENDMENTS TO THE CONSTITUTION | 141 |
| XVIII. TAXATION | 145 |
| XIX. EDUCATION AND THE SCHOOL SYSTEM | 151 |
| XX. SOCIAL AND ECONOMIC LEGISLATION | 161 |
| APPENDIX—THE CONSTITUTION OF IOWA | 173 |
| INDEX | 213 |



LIST OF MAPS.

- Map I. Illustrative of Indian Land Cessions in Iowa
between pages 8 and 9
- Map II. Illustrative of the Northwest Territory, the Territory of
Indiana, and the Territory of Michigan *between pages 18 and 19*
- Map III. Illustrative of the Boundaries of the Original Territory
of Wisconsin and the Separate Territory of Iowa
between pages 20 and 21
- Map IV. Illustrative of the Lucas Boundaries *between pages 28 and 29*
- Map V. Illustrative of the Nicollet Boundaries
between pages 30 and 31
- Map VI. Illustrative of the Date of Establishment and Present
Boundaries of Counties in Iowa . . . *between pages 116 and 117*

THE GOVERNMENT OF IOWA.

CHAPTER I.

THE LAND AND RESOURCES.

The Physical Basis of Government. — Physiography has always been an important factor in moulding the character of a people and determining the nature of their political institutions. We may, therefore, better understand our own State by first considering its physical features and its material resources. Iowa is renowned as an agricultural and stock-raising Commonwealth. It lies in the very heart of the great Mississippi Valley, a region unsurpassed in the productiveness of its soil. In fact, a large part of the world looks to the Mississippi Valley for its necessary food supply.

The State Boundaries. — The State of Iowa stretches from the majestic Mississippi on the east to the rapid Missouri on the west. It is bounded on the north by Minnesota, and on the south by Missouri. The exact location of the southern boundary line almost precipitated an armed conflict between Iowa, which was then a Territory, and Missouri, in 1839. Within this imperfect rectangular area lie 55,475 square miles, or 35,504,000 acres, of the most fertile land the sun has ever shone upon.

The Land. — Iowa is usually described as a rolling prairie ; and such, indeed, is its general topography. One of our

State Geologists, the late Professor Samuel Calvin, says: "It would seem that a very short chapter ought to be sufficient to include all that can be said concerning the physical features of Iowa; for the state is simply an extensive plain — over large areas a very monotonous plain — lying between the great rivers and rising but little above them at any point." Yet here and there, especially along the watercourses, rugged hills and picturesque bluffs often rise to the height of three or four hundred feet. A part of this hilly region in the northeastern part of the State has aptly been called "the Switzerland of Iowa."

The Prairies. — "It is estimated," says Dr. White, an earlier State Geologist, "that seven-eighths of the surface of Iowa was prairie when the State was first settled." To the early explorer and pioneer, who had fought his way through the stubborn forests and underbrush of the eastern part of the continent, these treeless prairies were an object of great wonder and interest. To stand upon them was like being out in midocean. The horizon seemed like a perfect circle; and the heavens rose like an inverted bowl above the explorer's head. Is it any wonder that on some of the early maps the Iowa country is designated as a "Great Desert"? The early pioneers clung to watercourses, where timber, so necessary for building and fuel most abounded. They seemed to be afraid to settle in the open country, being ignorant of the richness of the prairie soil.

The Work of the Glaciers. — How came Iowa to be a country in which the plough found itself almost independent of the axe and the grub hook? Geology, whose records

have been written deep across the whole face of this fair Commonwealth, must answer. Professor Calvin says that "these geologic records, untampered with, and unimpeachable, declare that for uncounted years Iowa, together with the great valley of the Mississippi, lay beneath the level of the sea. So far as it was inhabited at all, marine forms of animals and plants were its only occupants." Countless ages passed; the waters disappeared; plant and animal life came to abound only to be ground down and destroyed later by the great sheets of ice and snow which flowed down from the north. Devastating as they were, the glaciers made Iowa what it is to-day.

The Soil. — "Soils of uniform excellence would have been impossible," says Professor Calvin, "in a non-glacial Iowa. The soils of Iowa have a value equal to all of the silver and gold mines of the world combined. And for this rich heritage of soils we are indebted to great rivers of ice that overflowed Iowa from the north and northwest. The glaciers in their long journey ground up the rocks over which they moved and mingled the fresh rock flour from granites of British America and northern Minnesota with pulverized limestones and shales of more southern regions, and used these rich materials in covering up the bald rocks and leveling the irregular surface of preglacial Iowa." Thus in the course of the ages Iowa was made habitable for plant, animal, and man through the operation of natural laws.

The Resources of Iowa. — The census of Iowa for the year 1915 gives the number of farms in the State as 199,755,

representing 32,951,056 acres of land. The estimated value of these farms is \$3,512,196,460,¹ not including the value of buildings and farm implements. Upon these 199,755 farms the great bulk of the wealth of Iowa is produced. Corn is the chief farm product, the annual crop being estimated at 397,117,376 bushels; but wheat, oats, barley, and rye are also produced in goodly quantities, to say nothing of hay, vegetables, fruits, and berries.

The total value of farm crops in Iowa in the year 1914 was estimated at \$437,225,662. The value of live stock (cattle, hogs, sheep, horses, and fowls) upon the farms of Iowa is not quite equal to the value of the products of the soil, being estimated in 1914 at \$350,621,975. If now we add to these two already large sums the value of the mineral products, such as coal, clay, stone, gypsum, lead, and zinc (\$26,282,275), we have a grand total of \$814,129,912. These figures will no doubt be still larger in the Federal census of 1920. Manufactures are rapidly growing in this great agricultural and stock-raising State; and the value of the annual products of 5615 manufacturing establishments is given as \$310,954,000.

The Railroads. — To carry the products of Iowa to the markets of the world, private enterprise has literally covered the State with a network of railroads. Over nine thousand miles of rails traverse the State; and every one of our ninety-nine counties is crossed by one or more railroads. Indeed, it is asserted that few farmers are more than ten miles distant from a railroad station.

¹ The Federal census of 1920 will, no doubt, show a great increase in the value of Iowa land.

The Climate. — It is not the soil alone that has made Iowa rich and prosperous: the climate must also be taken into account. Millions of acres of fertile land are scarcely better than a desert of sand if climatic conditions are not favorable to the growth of plant and animal life. The director of the Iowa Weather and Crop Service says: "Situated near the geographical center of the United States, too far inland to receive the equalizing thermal effects of winds blowing directly from the oceans, the climate of Iowa is strictly continental in type. This implies a very wide range in temperature, winters of considerable severity, summers of almost tropical heat, and a large percentage of sunshine as compared with insular regions. As there are no mountain ranges, nor considerable differences in the altitude of the several sections, the climate of the state is quite homogeneous. . . . In fact, it is the best watered and most productive mid-continent region known on earth. Its worst drouths and seasons of floods have never been famine breeders." A complete failure of crops has never been known in Iowa.

QUESTIONS ON THE TEXT.

1. What is the area of Iowa in square miles? In acres?
2. Why were the prairies avoided by the earliest settlers?
3. What has made the soil of Iowa so fertile?
4. What are the chief farm products of Iowa?
5. What are the chief mineral products of Iowa?
6. What are the characteristics of the Iowa climate?

ADDITIONAL READINGS.

The Iowa-Missouri Quarrel, Aurner's Iowa Stories, Bk. II, p. 68.

Prairie Fires, Aurner's Iowa Stories, Bk. I, p. 52.

Winter Storms, Aurner's Iowa Stories, Bk. I, p. 55.

CHAPTER II.

POPULATION AND ETHNIC ELEMENTS.

The Making of a State. — A fertile soil and a genial climate are two very necessary elements in the creation of a Commonwealth. A third and most important factor is an intelligent, honest, and industrious people. It has been Iowa's good fortune to have such a population, without which, indeed, the figures given in the previous chapter could never have been written. But long before Iowa was settled by white men other peoples dwelt upon our rivers and roamed across our prairies.

Prehistoric Man. — The antiquity of mankind has always been a subject of greatest interest to man himself. As a human habitat Iowa is very old. Whether man was here before the glaciers is not at all certain. Evidences there are that a race or races of human beings dwelt in the Iowa country for countless generations before Columbus ever thought of his great western voyage. And even after the great discovery by Columbus, nearly two centuries had passed before the white man had gone so far into the interior of this continent as the Iowa country.

The Mound Builders. — It is believed that primitive man moved north as the glaciers disappeared, and that this first human inhabitant of the Mississippi Valley was

Eskimoid in type. "It is supposed," says Dr. Duren J. H. Ward, "that this little Eskimoid man was followed by the famous Mound Builder, who finally spread his art and civilization up and down the Mississippi Valley and east and west for great distances. His characteristic works are found in Ohio and in Iowa, in Louisiana and in Wisconsin. He has left a vast amount of evidence as to his physical characteristics and the material stage of his civilization; but he is withal a great mystery. His mounds, so numerous, constitute together the most baffling problem in Archæology. What are they, what were they for? Some of them are doubtless the remains of his dwelling places, but many are not. Some have religious significance; some may have been for defence. Doubtless in many of them is buried the owner of the lodge which once existed thereon or thereby. Probably with his bones are to be found his implements of peace and war, and oft-times, too, the bones of his slaves and his wives, who were sacrificed to accompany his spirit on the long voyage to the land of the Great Spirit."

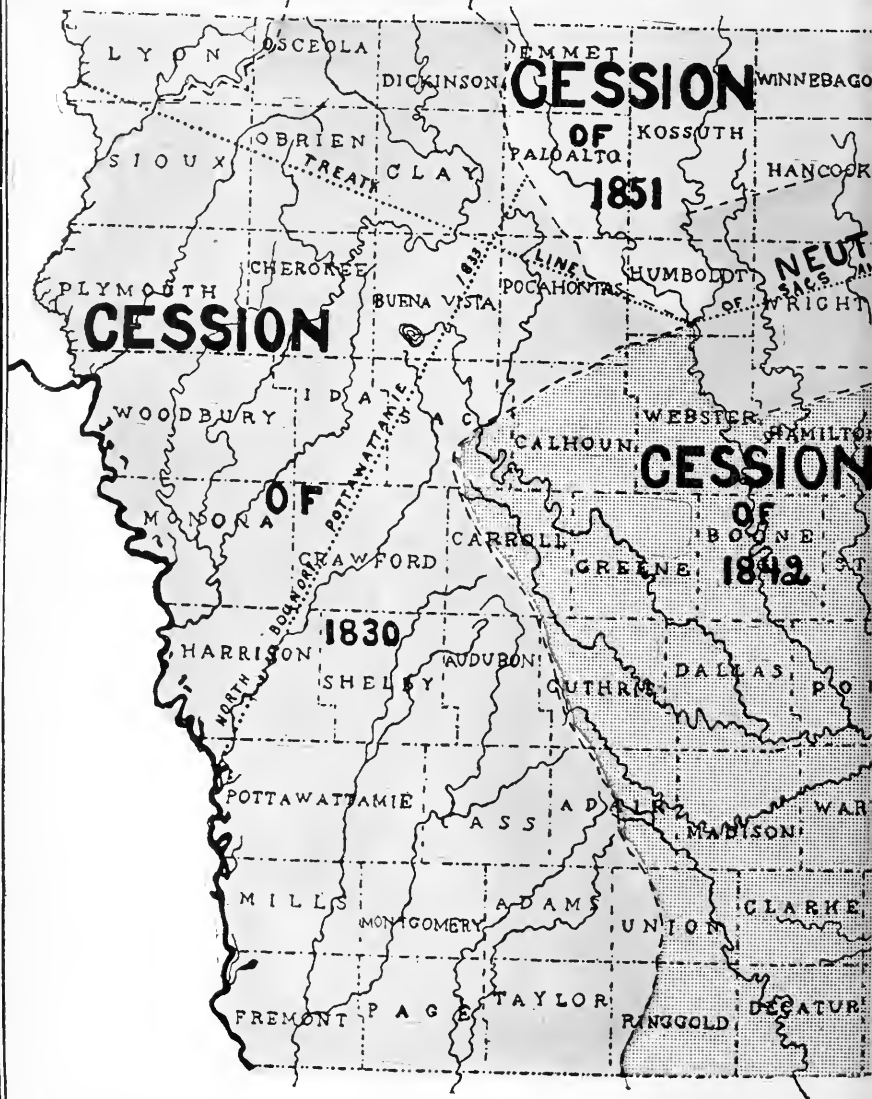
What became of the Mound Builder is a great mystery. He had disappeared, no one knows how long, before the first white man discovered the Mississippi Valley. That he lived in Iowa in great numbers is evidenced by the mounds which may be found on the banks of nearly every stream of any consequence in the State.

The Indians. — The Mound Builder was displaced, or at all events followed, by the North American Indians — a people who to-day are rapidly approaching extermination.

When the country west of the Mississippi was first explored by the whites, the Sioux Indians were found in possession of Minnesota and northern Iowa. This family of red men consisted of the following tribes: Sissetons, Ioways, Winnebagoes, Osages, Otoes, Missouris, and Omahas. The tribes of the Algonquin family, consisting of the Sacs, Foxes, Illinois, Pottawattamies, Ottaways, and Chippewas, occupied northern Missouri and southern Iowa. Of all of these tribes only a bare remnant of the Foxes still remain in Iowa. They are found along the Iowa River in Tama County and are known as the Meskwaki Indians.

Indian Conflicts. — Although the warlike spirit of the Indian had been much broken by his contact with the white man, the possession of the Iowa country was not given up without a struggle. Indian raids and depredations within the limits of Iowa are recorded as late as 1863. The most bloody of these Indian outbreaks was the Spirit Lake Massacre of 1857. The Black Hawk War, which was waged in 1832, was, however, the one great contest between the white man and the Indian of the Iowa country. It was fought in Illinois and Wisconsin, and resulted in the first cession of lands in the Iowa country in September, 1832.

Indian Cessions of Land. — A restless throng of immigrants, with all their worldly possessions packed in covered wagons, were waiting on the frontier eager to enter the Indian country and there to make permanent homes and settlements. Little by little the Indians were induced or coerced to give up their rights to occupy the Iowa lands.



MAP I. SHOWING CESSIONS



TERRITORY BY THE INDIANS



The most important of these Indian land cessions were: the Black Hawk Purchase of 1832; the Keokuk Reserve of 1836; the Cession of 1837; and the Cession of 1842. (See Map I of Indian Cessions.) In all of these transactions the Indian was not always fairly dealt with. Here in Iowa history has again been repeated. An inferior race had to give way to the more energetic and enterprising Caucasian. The Indian is gone forever; but the names of our rivers, creeks, lakes, cities, counties, townships, and even the State itself perpetuate his memory.

The Earliest White Settlers. — Probably the first white settler within the present limits of the State of Iowa was Julien Dubuque, who crossed the Mississippi in 1788, made friends with the Indians, married a squaw, and obtained from the Indians a lease of the lead mines in the vicinity of the present city of Dubuque. A few other settlements were made during the last quarter of the eighteenth century under Spanish grants, some of which were afterwards confirmed by the United States government as valid claims.

The Permanent Settlement of Iowa. — After the Indian title had been extinguished by the Black Hawk Purchase, settlers began literally to pour into the Iowa country even before they were legally entitled to do so. From 1830 it became apparent that Iowa was destined to be a land of homes and permanent settlements. Towns sprang up with mushroom rapidity, some of which (such as Dubuque, Burlington, Davenport, and Keokuk) have continued to flourish and prosper. Others, like Napoleon, Buffalo, and

New Boston, have disappeared and yielded up their sites to the cultivation of corn.

Whence came the Iowa Pioneers. — Whence the early settlers came has been the subject of some lively discussion. There has long been a tradition that Iowa was settled for the most part by New Englanders. On the other hand, it is well known that southeastern Iowa was settled largely by Southerners. In fact, the early settlers of Iowa came from all parts of the Union. Now it is reasonable to suppose that where government is in the hands of the people, the nativity of those in charge of the activities of government would be a pretty safe guide to the nativity of the population. This seems to be especially true in a pioneer community. The first Constitutional Convention of Iowa, which met in 1844, was composed of 72 members. Of these, one was born in Germany, one in Scotland, and one in Ireland. Of those born in the United States, thirteen were from Pennsylvania, eleven from Virginia, nine from New York, eight from Kentucky, eight from Ohio, six from North Carolina, six from Vermont, and one each from Massachusetts, Connecticut, New Hampshire, Maine, New Jersey, Tennessee, Indiana, and Illinois. The early settlers of Iowa represented the whole Union and not any one section of it.

The Growth of Population. — In 1838 the Territory of Iowa had a population of 22,859; by 1844 this number had increased to 75,152. This rapid growth in population represents the pioneer scramble for cheap land in a fertile region. When Iowa was admitted into the Union in 1846

the population numbered 102,388. And in the ten years from 1846 to 1856 it increased four times over. A writer in 1854 states that "immigrants to Iowa wait days to get a chance to be ferried across the river. They come in crowds a mile long, from every land, and the cry is 'still they come,' the immigration to northern Iowa exceeds anything ever seen or heard of except the stampede to California." The population of the State continued to gain up to 1900, when it numbered 2,231,853. In 1905 the returns showed a decrease of 21,803 since 1900. In 1910 the population of Iowa was 2,224,771, in 1920 it was 2,404,021—an increase of 179,250 in ten years. Practically the only decrease in the population of any county is in the rural districts. Cheaper lands in Canada, the far west, and the southwest have been attracting the young men of Iowa, as the Iowa country in the forties and fifties attracted their grandfathers from the older States.

Ethnic Elements. — The earliest settlers were mostly native born, that is, born in the United States, of English, Huguenot, Scotch-Irish, and Dutch extraction. During the fifties the Germans and Irish came direct from their native countries to Iowa in considerable numbers. The first settlement of Dutch was made at Pella in 1847. Since the Civil War large numbers of Slavs, Danes, Swedes, and Norwegians have come to the State. The mingling of these various ethnic elements in Iowa has produced a vigorous, industrious, and intelligent people, who have made Iowa what it is to-day. According to the census of 1915 there were in the State 1,422,464 native white per-

sons of native parents, 654,855 white of foreign or mixed parentage, and 16,578 colored. Nearly one-half of the population of the State is resident in towns of over 1000 inhabitants and 54.1 per cent of the population was living in cities or towns — thus showing the tendency of the people to migrate to the towns and cities in a great agricultural State like Iowa.

QUESTIONS ON THE TEXT.

1. What purposes did the mounds of the Mound Builders serve?
2. What tribe of Indians is still found in Iowa?
3. What was the worst Indian outbreak in the history of Iowa?
4. Why were the Indians forced out of Iowa?
5. Who was the first white settler in Iowa?
6. From what parts of the Union did the pioneers of Iowa come?
7. What has caused a decrease in population in recent years?
8. Name the chief nationalities represented in Iowa's population.

ADDITIONAL READINGS.

NOTE.—I. J. H. P. = *Iowa Journal of History and Politics*.

Some Iowa Mounds, I. J. H. P., Vol. II, p. 34.

The Problem of the Mounds, I. J. H. P., Vol. III, p. 20.

The Meskwaki People of Today, I. J. H. P., Vol. IV, p. 190.

Pushing the Indians out of Iowa, Aurner's Iowa Stories, Bk. I, p. 63.

A Diary of the Black Hawk War, I. J. H. P., Vol. VIII, p. 265.

The Half Breed Tract, I. J. H. P., Vol. XIII, p. 151.

The Black Hawk War and the Treaty of 1832, I. J. H. P., Vol. XIII, p. 416.

The Coming of the Hollanders to Iowa, I. J. H. P., Vol. IX, p. 528.

The Coming of the Norwegians to Iowa, I. J. H. P., Vol. III, p. 347.

The American Occupation of Iowa, 1833 to 1860, I. J. H. P., Vol. XVII, p. 83.

CHAPTER III.

EARLY HISTORY AND EXPLORATIONS.

The Struggle for the Middle West. — Although Iowa as a State is comparatively young, the early history of the Iowa country is full of the romance of exploration, adventure, and international conflict. The Iowa country was in a region coveted by the three great nations of Spain, France, and England. Each of these nations struggled for the possession of the vast unexplored domain west of the Mississippi.

Early Explorers. De Soto. — Of De Soto's unfortunate Spanish expedition but little is known except that it was conceived in an avarice for gold and left a trail of slaughter and devastation. In 1541 De Soto discovered the lower Mississippi River, and the next year was buried in its waters. After wandering for several years, they scarcely knew where, across the southern part of the United States, scarcely two hundred and fifty of his army of one thousand men survived to return to the Spanish settlements.

Nicollet. — Although he did not reach Iowa, the great journey of Nicollet in 1634 prepared the way for subsequent discoveries. Jean Nicollet, a Frenchman, sought to find a short water route to China from the Great Lakes; and it is said that he carried with him a gorgeous Man-

darin's robe that he might be suitably dressed when he arrived at the Chinese court. He found, however, only naked Indians along the Wisconsin River.

Radisson and Grosseilliers. — Radisson and his brother-in-law Grosseilliers made a western expedition in 1660. Launching their canoes upon Lake Superior, they followed the south shore to the end of the lake. They then made an extensive overland journey which probably took them as far west as the Mississippi. In his journal Radisson mentions, among the Indian tribes he had met, the Maingonis. "These," says Professor Lænas G. Weld, "were probably the Moingonas, who at this period dwelt along the Illinois River, though they were found in Iowa not many years later. Our capital city is named from the river Des Moines, i.e. *La riviere des Moingonas*." It is believed that this is the earliest appearance of the name Des Moines in history.

Marquette and Joliet. — To Iowans the famous first voyage of Marquette and Joliet down the Mississippi in 1673 is of the greatest interest. For they were the first white men to discover the upper Mississippi and to make explorations within the present limits of the State of Iowa. From Marquette's journal and map we know that it was upon June 25, 1673, that the two men landed near the mouth of the Iowa River in Louisa County,¹ and proceeded inland along the Iowa River for some miles. Having discovered a village of Illinois Indians, they tarried several

¹ Weld's *Joliet and Marquette in Iowa in the Iowa Journal of History and Politics*, Vol. I, No. 1, pp. 3-16.

days before continuing their journey down the Mississippi. Marquette and Joliet made their journey under French auspices.

Du Luth. — This man, after whom the flourishing Minnesota city on Lake Superior has been named, was the leader of a band of Frenchmen who carried on trade with the Indians, contrary to the king's orders, between 1678 and 1681. But these wood rangers or *Coueurs de bois*, as they were called, did much to extend the French trade and influence in the Northwest.

La Salle. — Ambitious to extend French power in the West, La Salle conducted several expeditions through the Mississippi Valley between the years 1669 and 1687. Though disappointments and misfortunes accompanied most of his undertakings, La Salle clung steadfastly to his purpose; and the French based their claims to the Louisiana Territory largely upon the results of his discoveries and explorations. He lost his life in 1687 at the treacherous hands of a member of his own party.

Hennepin. — Father Louis Hennepin, as a member of one of La Salle's expeditions, explored the Mississippi to its sources in 1680. He gave the name of Saint Anthony to the beautiful falls on the upper Mississippi; and his published accounts of the "New Discovery" were widely read throughout the civilized world.

The French Title Confirmed. — These and other discoveries and explorations confirmed the title of France to the Mississippi Valley; while the reports of the explorers

and the accounts of wilderness adventures roused many an ambitious youth to follow the trails into the wilderness. It was on the ninth day of April, 1682, that La Salle unfurled the French flag at the mouth of the Mississippi River and formally took possession of the entire valley in the name of the king of France. He gave to the country the name Louisiana in honor of his king, Louis XIV.

The Louisiana Country. — France and England had long been enemies at home; and so it is not surprising that they were likewise enemies in the new world. France finally lost Canada and the Ohio Valley to the British, and secretly bestowed upon Spain the trans-Mississippi country. The success of the American colonies in their war for independence gave to them, in addition to the territory of the thirteen original States, the territory west of the Alleghanies and east of the Mississippi River. In 1800 Spain receded the Louisiana country to France. By this time the American pioneers were rapidly pushing westward, only to find their chief avenue of commerce — the Mississippi River — blocked at the mouth by grievous burdens laid upon commerce by the Spanish and French authorities.

The Purchase of Louisiana. — President Jefferson sent a commission to France to purchase the French rights at the mouth of the river; but Napoleon, fearing that Louisiana like the other French possessions in America, might any day fall into the hands of his British enemies, persuaded the Commissioners to take the whole province of Louisiana for something over \$15,000,000.

Thus, Iowa, though as yet unnamed, first became a part of the United States in 1803. The periods of French, Spanish, and again French control of the Iowa country, however, left little or no permanent impress upon its future government, because the country was as yet unsettled.

The Government of the New Purchase. — On March 26, 1804, Congress made provision for the government of the newly acquired country by dividing it into two jurisdictions — the Territory of Orleans and the District of Louisiana. The Territory of Orleans in no way concerns the history of Iowa; but the District of Louisiana, of which Iowa was a part, was placed under the jurisdiction of the Governor and Judges of the Territory of Indiana. It was in 1804, while the Iowa country was under the jurisdiction of the Governor and Judges of the Territory of Indiana, that Governor William Henry Harrison, afterwards President of the United States, made the famous treaty with the Indians at St. Louis, which was later one of the causes of the Black Hawk War.

The Lewis and Clark Expedition. — The United States now authorized several military expeditions into the newly acquired area for the purpose of getting more accurate information relative to the nature of the country. The first and most famous of these was the Lewis and Clark Expedition (1804-1806). Making their way up the Missouri River, Lewis and Clark passed along the western border of Iowa. Sergeant Floyd, the only person who died on the expedition, was buried on Iowa soil near the present site of Sioux City; and his memory is perpetuated in the

names of Floyd River and Floyd County and by a monument near his grave erected jointly by the government of the United States and the government of Iowa.

The Pike Expedition. — In 1805 Zebulon Montgomery Pike led an expedition from St. Louis to the source of the Mississippi River for the purpose of selecting suitable sites for military posts. He visited the lead mines of Dubuque, and there had a personal interview with Julien Dubuque. He also met and conversed with Black Hawk on Iowa soil. His journal of the expedition contains many references to the eastern border of the Iowa country.

Early Governments. — From 1805 to 1812 the Iowa country formed a part of the Territory of Louisiana. In 1812 it was included in the Territory of Missouri. When, however, Missouri was admitted into the Union in 1821, the Iowa country was apparently forgotten until 1834, when it was "attached to, and made a part of, the Territory of Michigan" for the purpose of temporary government. (See Map II.) Since the Iowa country was not permanently inhabited by white men before 1830, its political history up to that date is scarcely more than a record of changes in sovereign and subordinate jurisdictions.

The Expedition of the United States Dragoons. — In 1833 Congress created the First United States Dragoons, a military organization established to insure a more perfect defence of the frontier country. Its marches extended over five of the States of the Mississippi Valley, serving not only as a body for defence, but also conducting explora-





MAP II. ——— Northwest Territory, 1776
————— Territory



— Territory of Indiana, 1804-1805
Michigan, 1834-1836



tions, holding councils, and making treaties with the various Indian tribes.

On June 7, 1835, Companies B, H, and I of the Dragoons left Fort Des Moines in Lee County, marched 1100 miles across the eastern part of Iowa and as far north as Wabasha's village on the Mississippi River in Minnesota, and returned by a more westwardly route August 19, 1835, without the loss of a single horse or man. Lieutenant Albert M. Lea was in command of Company I, and was also the official "topographer and chronicler" of the expedition. It is in Albert Lea's *Notes on the Wisconsin Territory* that much information of vital interest in the early history of Iowa has been preserved.

The Naming of Iowa. — Marquette and Joliet had discovered Iowa: it remained for an American citizen to christen it. There has been some dispute as to the exact meaning of the word "Iowa";¹ but there can be no dispute as to who gave the name to the country west of the Mississippi. Albert M. Lea's *Notes on the Wisconsin Territory, particularly with Reference to the Iowa District or Black Hawk Purchase*, published in 1836, was the first descriptive account in which the name Iowa was applied to the country west of the Mississippi. In this little book the author in referring to that part of the Wisconsin Territory which lay west of the Mississippi says: "... from the extent and beauty of the Iowa river which runs centrally through the District, and gives character to most of it, the name of that stream being both euphonest and ap-

¹ "This is the place" or "Beautiful Land" are generally accepted.

propriate, has been given to the District itself." Thus Iowa was first named by Albert M. Lea, who took the name from the Iowa River. The name Iowa seemed to meet with general favor and was soon universally adopted.

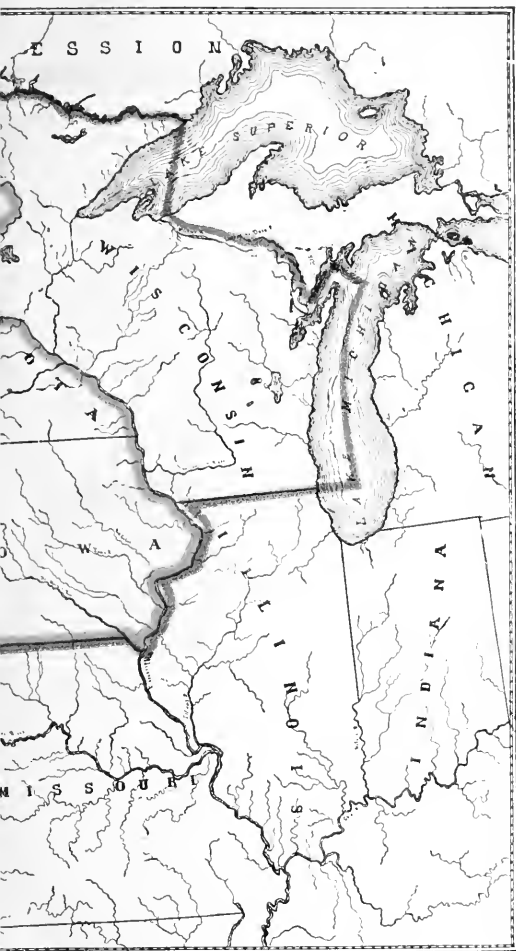
The Territory of Wisconsin. — It was on the fourth day of July, 1836, that the original Territory of Wisconsin, of which the Iowa District was a part, was organized under an act of Congress. (See Map III.) So rapid was the growth of population in the Iowa District that the capital of Wisconsin Territory, which had originally been located at Belmont on the east side of the Mississippi in 1836, was moved to the town of Burlington on the west side of the river within a year.

The Territory of Iowa. — No sooner had the Territory of Wisconsin been organized than a movement was started to establish a separate territory west of the Mississippi. In his *Notes on the Wisconsin Territory*, Albert M. Lea said: "Though this District may be considered, for a time, as forming a part of the Wisconsin Territory, yet the intelligent reader will have little difficulty in foreseeing that a separate government will soon be required for Iowa." On June 12, 1838, President Van Buren gave his approval to an act to divide the original Territory of Wisconsin and to establish the territorial government of Iowa. (See Map III.) The political existence of Iowa as a separate and distinct government began on the fourth day of July, 1838. Eight years afterwards, on December 28, 1846, Iowa was admitted into the Union with the present State boundaries. (See Map IV.)



MAP III. ILLUSTRATIVE OF THE
OF WISCONSIN AND THE

— Territo
— Territo



BARRIERS OF THE ORIGINAL TERRITORY

RATE TERRITORY OF IOWA

Wisconsin, 1836-1838

Iowa, 1838-1846



QUESTIONS ON THE TEXT.

1. What nations sought possession of the Mississippi Valley?
2. Who were the first white men to discover and land in Iowa?
3. Who explored the upper Mississippi?
4. How was the French title to the Mississippi Valley gained?
5. Why did the United States want the mouth of the Mississippi River?
6. Who was Sergeant Floyd, and why is his memory perpetuated in Iowa?
7. Why was the government of the Iowa country prior to 1830 of but little importance?
8. Who deserves the credit of having named Iowa?
9. From what was the name "Iowa" derived?
10. When was Iowa established as a separate territory?

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French Expedition against the Sac and Fox Indians in the Iowa Country, 1734-1735, I. J. H. P., Vol. XII, p. 245.

The Contributions of Albert Miller Lea to the History of Iowa, I. J. H. P., Vol. IX, p. 3.

CHAPTER IV.

THE FOUNDATIONS OF GOVERNMENT IN IOWA.

The Squatter Governments. — History records how the Pilgrim fathers, coming without government authority to the new world, drew up the famous Mayflower Compact to insure among themselves an orderly civil society. The pioneers of Iowa, settling upon lands as yet unsurveyed and unprovided with local constitutional government, likewise voluntarily entered into agreements to secure peace, order, and justice.

The Miners' Compact. — The neglected and abandoned mines of Spain at Dubuque were reopened by miners early in the year 1830. And as Congress had made no provision for the local government of the Iowa country after the admission of Missouri in 1821, the miners at Dubuque met around an old cottonwood log and organized themselves into a body politic by drawing up the following regulations :

DUBUQUE MINES, June 17, 1830.

We, a committee, having been chosen to draft certain rules and regulations, by which we, as miners, will be governed ; and, having duly considered the subject, do unanimously agree that we will be governed by the regulations on the east side of the Mississippi River, with the following exceptions, to wit :

ARTICLE I. — That each and every man shall hold two hundred yards square of ground by working said ground one day in six.

ARTICLE II. — We further agree, that there shall be chosen by the majority of the miners present, a person who shall hold this article, and who shall grant letters of arbitration, on application being made, and that said letter [of] arbitration shall be obligatory on the parties concerned so applying.

To the above, we the undersigned subscribe.

J. L. LANGWORTHY,

SAMUEL H. SCOLES,

H. F. LANDER,

E. M. URN.

JAMES MCPHEETERS,

The Squatters and the Law. — Zachary Taylor, in command of United States troops at Prairie du Chien, sent Jefferson Davis, at this time a young army officer, with a detachment of troops to drive the Dubuque miners and other settlers back to the east side of the river; for Congress had as early as 1785 and again in 1807 declared that no settlements should be made on any part of the public domain until the Indian title thereto had been extinguished and the land surveyed. And again in 1833 the act of 1807 was revived with special reference to the Iowa country. But as Professor Benjamin F. Shambaugh aptly says in his *History of the Constitutions of Iowa*, “. . . the pioneers on their way to the trans-Mississippi prairies did not pause to read the United States Statutes at Large. They outran the public surveyors. They ignored the act of 1807. And it is doubtful if they ever heard of the act of March 2, 1833. Some were bold enough to cross the Mississippi and put in crops even before the Indian title had expired; some squatted on unsurveyed lands; and others, late comers, settled on surveyed territory.”

The Character of the Squatters. — When the Congressional survey was first begun in Iowa in 1836, there were

over ten thousand squatter settlers in the country busily engaged in building homes and planting and harvesting crops. They were little concerned about the fact that they were in the eyes of the law trespassers on the public domain. They were not a lot of lawless vagabonds, land robbers, or fugitives from justice, as they were sometimes pictured in the East. Says Albert M. Lea: "Those who have been accustomed to associate the name of *Squatter* with the idea of idleness and recklessness, would be quite surprised to see the systematic manner in which everything is here conducted. For intelligence, I boldly assert that they are not surpassed, as a body, by an equal number of citizens of any country in the world."

Claim Clubs. — When the government of the United States failed to protect them in what they were pleased to call their rights, the pioneers organized claim associations or land clubs to guarantee to every *bona fide* settler his claim until he was enabled to purchase the same from the government. Probably a hundred or more of these claim associations or land clubs were formed in early Iowa; and the constitutions and by-laws adopted by the members with no authority from the United States were as binding upon the early settlers of Iowa as if they had been written in the statutes of Congress. A significant entry upon the records of the Fort Dodge Claim Club reads: "If any member of this Club finds his or any of his friends Clames has been Jumpt that they inform this Club of the fact and that this Club forthwith put them off of said clame without trobling the Sivel Law."

QUESTIONS ON THE TEXT.

1. What was the purpose of agreement entered into by the Dubuque miners?
2. Who were the Squatters?
3. How did the Squatters protect their claims in Iowa?

ADDITIONAL READINGS.

NOTE.—I. J. H. P. = *Iowa Journal of History and Politics*.

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Dubuque: Its History, Mines, Indian Legends, etc., I. J. H. P., Vol. VIII, p. 366.

The Attitude of Congress toward the Pioneers of the West from 1780-1820, I. J. H. P., Vol. VIII, p. 3. Also for period 1820-1850, see I. J. H. P., Vol. IX, p. 196.

Early Land Claims in Des Moines County, I. J. H. P., Vol. X, p. 255.

CHAPTER V.

THE ORGANIC ACT AND CONSTITUTIONS OF IOWA.

The Organic Act of 1838. — The organization of the Iowa District into the Territory of Iowa on July 4, 1838, by the act of Congress approved on June 12, 1838, was accomplished by provisions defining the powers and duties of the new territorial government. This act of Congress establishing the Territory of Iowa was not a new creation: it was simply a product of that most interesting evolutionary development in territorial government that took place throughout the North and West. As in the case of other territorial governments created by Congress, the Organic Act of the Territory of Iowa was a grant to a people whose consent was not asked — in spite of the fact that the Fathers of the Republic had declared that governments derive their just powers from the consent of the governed.

The Territorial Governor. — The provisions of the Organic Act of the Territory of Iowa were liberal and in keeping with the evolution of democracy. At the same time the Governor — the much hated official in colonial times — was made the central figure and chief authority in the government. He represented the national govern-

ment as the royal governors had represented the crown; and he had an absolute veto on all acts of the two houses of the Legislative Assembly. He also acted as Superintendent of Indian affairs within the Territory.

The Territorial Legislature. — The law-making body, called the Legislative Assembly, was composed of two houses, — a Council and a House of Representatives. The Council consisted of thirteen members, elected biennially; while the House of Representatives was composed of twenty-six members, elected annually. The Territorial Assembly was vested with power over “all rightful subjects of legislation.” This, however, did not give it unlimited power, for in addition to the specific limitations contained in the Organic Act, Congress still had power to declare null and void any of its acts.

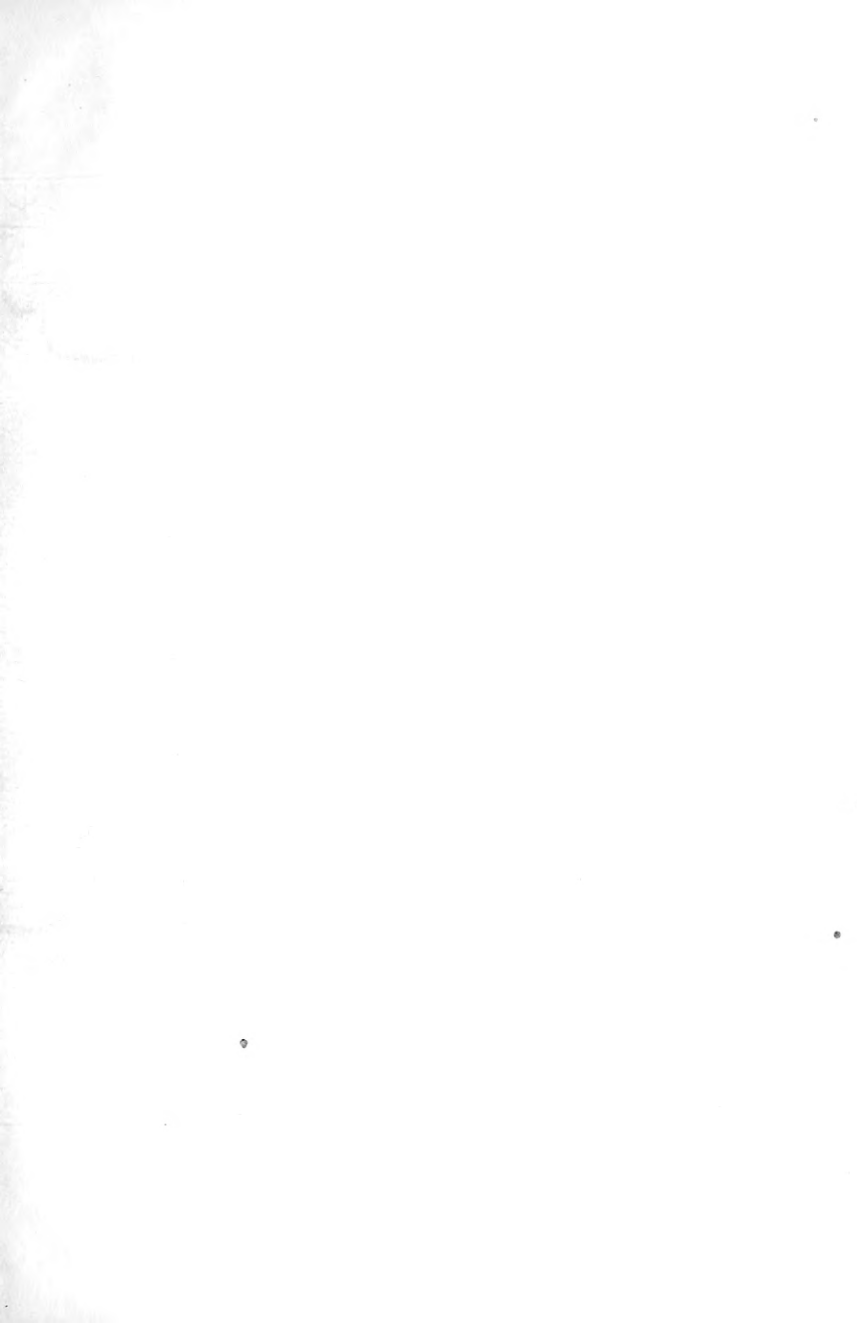
The Territorial Judiciary. — The courts of the Territory were created by Congress and consisted of a supreme court, district courts, probate courts, and justices of the peace courts. The supreme court consisted of a chief justice and two associate justices appointed by the President of the United States for a period of four years. The Organic Act gave the Governor power to appoint, with the advice and consent of the Legislative Council, all judicial officers, justices of the peace, sheriffs, and all militia officers.

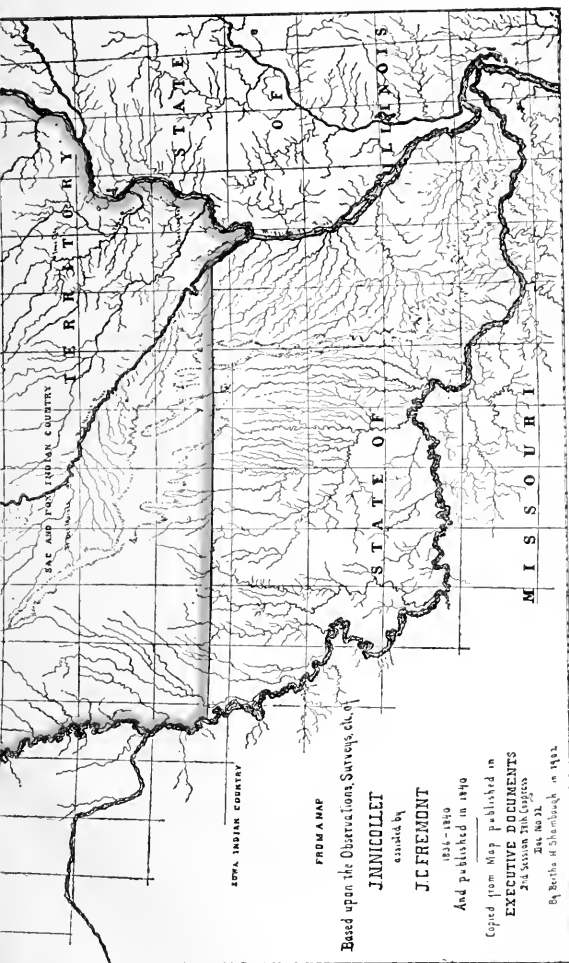
The First Governor. — Many of the pioneers of Iowa had participated in the administration of government in the States from which they had come, and as members of the Territorial legislature of Iowa they bitterly complained of the “arbitrary acts” of the first Territorial Governor,

Robert Lucas, who did not hesitate to veto measures that did not meet with his approval. The independent, liberty-loving pioneers of Iowa, drew up a remonstrance and petition to the President of the United States for a redress of grievances (January 15, 1839), in which they declared Robert Lucas "unfit to be the ruler of a free people."

The Organic Act Amended. — Governor Lucas was not removed from office, but the remonstrance was not without effect. Within three months Congress had passed two amendments to the Organic Act of Iowa, limiting the Governor's veto and appointing power and thus making the territorial government more distinctly a government of the people. As thus amended the Organic Act of 1838 established for the pioneers of Iowa a government which served as a sort of training school in public affairs. Nor did Congress fail to recognize their ability to administer their own local affairs in keeping with the fundamental ideals of the Republic; for within a remarkably short time Iowa was admitted into the Union on an equal footing with the original States.

The First Steps toward Statehood. — The Territory of Iowa was scarcely a year and a half old when the first steps looking toward admission into the Union were taken. In his message to the Legislative Assembly in November, 1839, Governor Lucas recommended a memorial to Congress asking permission to form a Constitution and State government; but in this recommendation the Territorial Legislature did not concur. The members hesitated to take any action which might ultimately throw the burdens of





MAP IV. ILLUSTRATIVE OF THE LUCAS BOUNDARIES

Lucas Boundaries

Present Boundaries

statehood upon the settlers, most of whom had not yet paid for their claims. Indeed, they were content with existing conditions and well satisfied to let Congress defray the expenses of the territorial government.

In 1840 Governor Lucas asked that the subject of statehood be submitted to a vote of the people of the Territory. This recommendation was followed by the Legislative Assembly and provision was made for ascertaining the wishes of the people. At the election in 1840 the people promptly voted down the proposition as emphatically as the Territorial Legislature had done the year before.

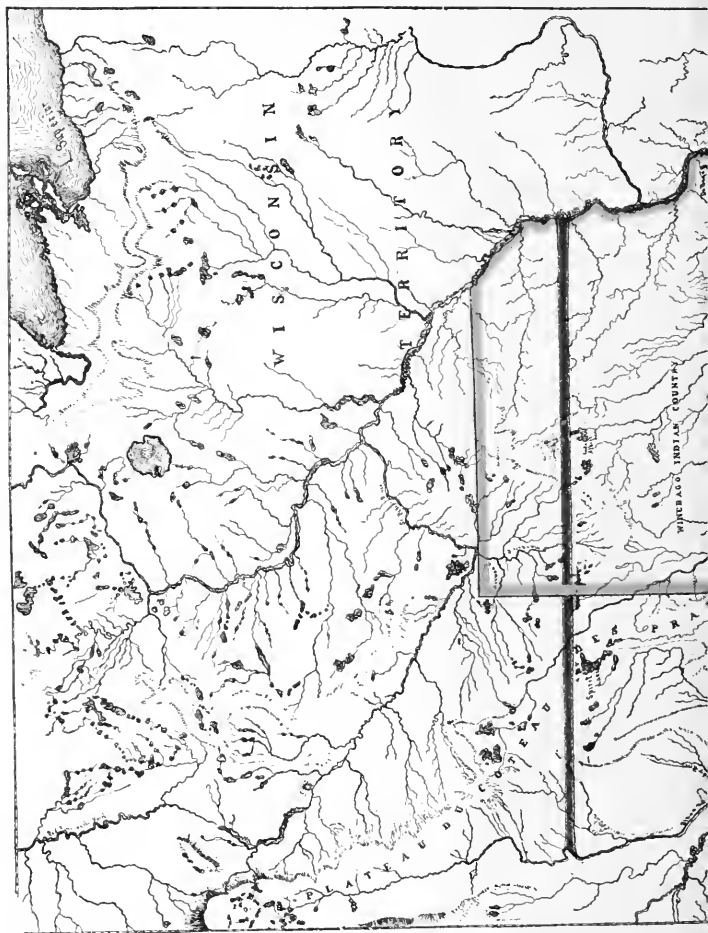
In December, 1841, the new Territorial Governor, John Chambers, recommended that the question of statehood be again submitted to the people. The Legislative Assembly again enacted the necessary legislation. At the election in August, 1842, every county in the Territory declared against State organization. The matter of additional expense to the people which would follow State organization was the chief cause of opposition to the proposition. In December, 1843, the subject of statehood was again called up by the Governor. Early in 1844 provision was made for an expression of opinion by the people, who at the April election of that year favored by a considerable majority the formation of a State government.

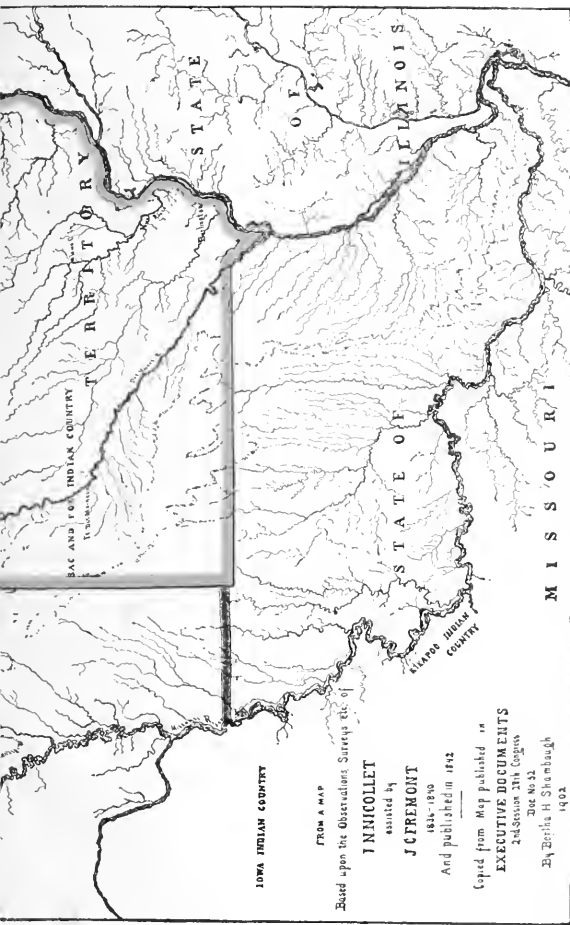
The Constitution of 1844.—The convention called to frame a State Constitution met at Iowa City in October, 1844. It consisted of seventy-two members and continued in session twenty-six days. It prescribed what are known as the Lucas Boundaries for the proposed State. (See

Map IV.) Congress, however, in passing the act of admission in 1845 prescribed what are known as the Nicollet Boundaries. (See Map V.) Thus when the people came to vote upon the acceptance of the Constitution of 1844, many hesitated to give it their approval, fearing that an approval of the Constitution would be construed as an acceptance of the Nicollet Boundaries prescribed by Congress. Twice in the year 1845 the Constitution of 1844 was submitted to the people of Iowa, and twice it was rejected by them. The people of Iowa preferred to remain under territorial government rather than give up the Missouri River as the western boundary of the proposed State.

The Constitution of 1846. — When they met on the first Monday in December, 1845, the members of the Territorial Legislature found themselves confronted with the old subject of statehood — a problem which had been before the people and the Legislative Assembly for the past six years. The Legislative Assembly now made provision for another Constitutional Convention, which met at Iowa City in May, 1846. The new Convention consisted of thirty-two delegates who completed their work of drafting a Constitution in just fifteen days. The Constitution of 1846, although closely resembling the Constitution of 1844, was shorter and more carefully drawn. In order to avoid another dispute over boundaries the Committee on Territories in the United States House of Representatives suggested as a compromise the present State boundaries. (See Maps IV and V.) These boundaries were accepted







MAP V. ILLUSTRATIVE OF THE NICOLLET BOUNDARIES

— Nicollet Boundaries — Present Boundaries



by the Convention at Iowa City. The Constitution of 1846 with the compromise boundaries was submitted to the voters of Iowa on August 3, 1846, and was adopted by the small majority of 456 out of 18,528 votes.

Admission to the Union. — Congress and the people of Iowa had now agreed upon the boundaries of the proposed State. The people had ratified the Constitution as submitted by the Convention of 1846. And so in October, 1846, the first State officers were elected, and State government was inaugurated in the first week of December. The formal admission of Iowa into the Union was not effected, however, until December 28, 1846, when President Polk attached his signature to a bill providing for the admission of Iowa "into the Union on an equal footing with the original States in all respects whatsoever."

The Revision of the Constitution of 1846. — The Constitution of 1846 was not adopted altogether on its merits: the people were anxious to get into the Union and they saw in the prompt adoption of the proposed Constitution the easiest means of accomplishing that end. The undesirable provisions of the Constitution could be changed after admission; while Congress might not again feel as readily disposed to grant admission.

Scarcely had the Constitution of 1846 been ratified by the people and Iowa admitted into the Union before active steps were taken looking toward the future revision of the fundamental law. As long, however, as the Democrats controlled the General Assembly, they refused to allow the subject of revision to be submitted to the people. When

Governor James W. Grimes was elected in 1854 the Whig party gained control of the General Assembly, and it quickly passed an act providing for the taking of "a vote of the people for or against a convention to revise or amend the Constitution."

The Third Constitutional Convention. — In the ten years following the adoption of the Constitution of 1846 the population of Iowa had grown from 102,388 in 1846 to 517,875 in 1856. The majority of 18,628 votes in favor of a convention to revise and amend the Constitution was now larger than the total number of votes cast for the Constitution of 1846.

The third Constitutional Convention which assembled at Iowa City in January, 1857, consisted of thirty-six delegates. After a session of thirty-nine days, it adjourned on March 5, 1857. The Constitution which it drafted was a revision of the instrument of 1846; but it was fuller, more complete, and better adapted to the conditions of the rapidly growing Commonwealth. The Whigs had always maintained that the Constitution of 1846 was a code of "Democratic partizan dogmas." The Constitution of 1857 repealed many of these so-called Democratic dogmas; and so the Democrats in turn referred to the new Constitution as the "Republican Code."

A majority of 1630 votes was cast for the new Constitution; and on September 3, 1857, it was declared by the Governor to be "the supreme law of the State of Iowa." This Constitution has remained the fundamental law of the State for over half a century. It has been

amended from time to time, but the body of the Constitution remains as adopted in 1857.

The Important Parts of a Constitution. — America has always been the home of constitutional government; and so we should not expect to find the Constitution of Iowa differing widely in fundamental principles from the constitutions of the thirteen original States or, indeed, of the fifteen Commonwealths which preceded Iowa in admission to the Union.

Professor John W. Burgess says that a complete constitution of government consists of three fundamental parts: (1) the constitution of liberty or bill of rights, which sets forth the immunities and positive rights enjoyed by the citizens; (2) the constitution of government, that is, the body of the constitution which defines the great departments of government and limits their respective spheres; (3) the amending clause, which provides for future changes in the constitution. The Constitution of Iowa makes adequate provision for these three parts, which will be considered in detail in the chapters that follow.

The Preamble. — A preamble is not a necessary part of a constitution. It frequently serves as an introduction, stating the reasons for the adoption of the constitution and specifying the authority from which it emanates. The preamble of the Iowa Constitution of 1857 specifies the people as the sovereign authority; acknowledges dependence upon the Supreme Being; gives the name Iowa to the State; and defines its boundaries.

QUESTIONS ON THE TEXT.

1. What was the Organic Act of the Territory of Iowa?
2. What was the position of the Territorial Governor?
3. What was the composition of the Territorial Legislature?
4. How were the Judges of the Territorial courts chosen?
5. Why did Robert Lucas, the first Governor, get into trouble with the Legislative Assembly?
6. Why were the first steps toward statehood rejected in Iowa?
7. Why did the people of Iowa refuse to come into the Union in 1845?
8. When was Iowa admitted into the Union?
9. Why did the Democrats reject all propositions to amend the Constitution of 1846?

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NOTE.—I. J. H. P. = *Iowa Journal of History and Politics*.

Making a New State, Aurner's Iowa Stories, Bk. II, p. 49.

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Arguments in Favor of the Admission of Iowa into the Union, I. J. H. P., Vol. XIV, p. 395.

CHAPTER VI.

OUR CIVIL RIGHTS.

The Rights of Man. — The rights or liberties of man were obtained only after long years of struggle against the arbitrary government of kings and monarchs who insisted that they and not the people were the source of power and authority in the State. When King John agreed to abide by the provisions of Magna Charta in 1215 and when William and Mary signed the famous Bill of Rights in 1689, government by the people won lasting victories; for when acknowledged limitations had once been placed upon the power of the king, self-government was possible and the rights of man secure.

Political Inheritances. — Our American forefathers cherished the rights which Englishmen had secured, and in the Declaration of Independence and Constitution of the United States they reasserted these fundamental rights of man. Most of the constitutions of the thirteen original States contained long bills of rights; and although there has not been the same necessity to provide for the protection of the people against arbitrary power, nevertheless the new States as they were admitted into the Union prefaced their constitutions with all of the old time fundamental guarantee of rights and frequently added new ones to fit local circumstances and changed conditions.

The Iowa Bill of Rights. — It is, therefore, not surprising to find among the twenty-five sections of the Iowa Bill of Rights much that is familiar and little that is new. A brief reference to the provisions of these sections will suffice.

Rights of Persons. — “All men are, by nature, free and equal”; and the people have the right of “defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.”

Popular Sovereignty. — The doctrine of the Revolution, that political power belongs to the people and that they have a right to alter or reform government whenever the public good demands it, is also asserted. Thus the protection and security of the people rests with the people themselves.

Religious Freedom. — Complete religious freedom in all respects whatsoever is guaranteed more fully than was dreamed of in 1776. The people of Iowa are free to worship as they please. But no one may indulge in immoral practices under the cloak of religious freedom.

Duelling. — The absurd practice, still witnessed in Europe, of fighting duels to settle differences instead of appealing to the courts is discountenanced in Iowa by a provision of the Constitution which disqualifies any one who participates in a duel from holding any office in the State.

Uniform Laws. — All general laws must be uniform in operation, and no special grants or privileges may be made to any citizen or group of citizens.

Liberty of Speech and of the Press. — Freedom of speech and a free press are guaranteed; but every individual is held responsible for the abuse of this right. One cannot slander or libel his neighbors without being liable to be called to account in the courts and punished.

Personal Security. — General search warrants being expressly prohibited, the citizen is secured against unreasonable and annoying seizures and searches by the governmental authorities.

Trial by Jury and Due Process of Law. — The right of “trial by jury” is guaranteed. But the General Assembly is authorized to provide for trials by a less number of jurors than twelve in inferior courts. This provision has been of great practical importance in facilitating the trial of petty cases before justices of the peace. By “due process of law” is meant the strict observance of all of those rules and forms which have come to be recognized by law or custom in the trial of accused persons. “No person shall be deprived of life, liberty, or property, without due process of law.”

Rights of Accused Persons. — In the convention which drafted the Constitution a lively contest was precipitated over the provision relating to the rights of accused persons. It guarantees a speedy and public trial by an impartial jury “in all criminal prosecutions, and in cases involving the life or liberty of an individual.” The last clause of the provision was thought by the pro-slavery element in the convention to contain a hidden purpose of defeating the Fugitive Slave Law.

Trial in Justice Court. — Summary trial before a justice of the peace for minor offences without indictment by a grand jury is authorized, but in such cases the right of appeal to the District Court is preserved.

Twice Tried. Bail. — No person may be tried a second time for the same offence. All but capital offences are bailable, by which is meant that an accused person need not remain in jail until tried, but by giving the necessary security for his appearance in court at the proper time he may have his liberty.

Habeas Corpus. — The ancient right to the writ of habeas corpus is guaranteed. A writ of habeas corpus is an order from a judge requiring the person who is accused of unlawfully depriving another of his liberty to bring such person into open court in order that the question of unlawful detention may be passed upon by a judicial tribunal. Through this writ arbitrary arrests and imprisonments are prevented.

Military. — The military, which has often been the arm of despotism, is completely subordinated to the civil authority and is, indeed, dependent upon it for support by appropriations, which may not be voted for more than two years at a time.

Quartering Soldiers. — The quartering of soldiers in time of peace in any house without the consent of the owner is prohibited.

Treason. — The definition of treason, says Professor Burgess, is one of the greatest safeguards of liberty, for

the governing party must not be allowed to treat peaceable opposition to its policies as disloyalty to the country or as treason against the State. Therefore, it is provided in the Constitution of Iowa that treason shall consist only in levying war against the State, adhering to its enemies, or giving to such enemies aid and comfort. It is for the courts to determine whether in any particular case treason has been committed.

Bail. Fines. Punishment. — “Excessive bail shall not be required; excessive fines shall not be imposed, and cruel and unusual punishment shall not be inflicted.” These provisions guarantee the accused fair and humane treatment. They do not, however, prohibit the death penalty for crime. In some States the courts have been called upon to determine whether electrocution could be lawfully practiced and they have held that such form of punishment is not prohibited.

Eminent Domain. — Section eighteen not only prohibits the taking of private property for public use without just compensation, but still further fortifies private property rights against condemnation by prohibiting the taking into account of any advantages that may result to the owner on account of the improvement for which it is taken.

Moreover, this same section of the Bill of Rights has been the subject of one of the more recent amendments of the Constitution. In November, 1908, the voters of Iowa adopted a long paragraph authorizing the General Assembly to “pass laws permitting the owners of lands to construct drains, ditches, and levees for agricultural, sanitary,

or mining purposes across the lands of others, and provide for the organization of drainage districts," etc. Such legislation was especially desired in the northern and northwestern parts of the State, where great tracts of swamp or marsh lands have since been reclaimed for agriculture and grazing purposes.

Imprisonment for Debt. — No one may be imprisoned for debt in Iowa. This is a barbarous and useless punishment which was generally abolished during the nineteenth century.

The Right of Assembly and Petition. — The right of the people to assemble and their right to petition the government for a redress of grievances are fully guaranteed in Iowa. These guarantees, however, do not apply in districts where martial law has been declared to be in force. Thus, during the 'button workers' strike in Muscatine in the spring of 1911, when it was necessary to call upon the military department to maintain peace and order, the town was placed under martial law and the people were not allowed to assemble even for the purpose of prayer.

Attainder. *Ex post facto* Laws. Contracts. — The Federal Constitution declares that, "No state shall . . . pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts." Evidently to make doubly sure of these prohibitions in Iowa, such legislation is likewise prohibited by the Bill of Rights of the State Constitution.

Resident Aliens. — Emigration of foreigners to the State is encouraged by guaranteeing to them "the same

rights in respect to the possession, enjoyment and descent property, as native-born citizens."

Slavery. — The wise provision of the Northwest Ordinance of 1787 prohibiting slavery and involuntary servitude except as a punishment for crime was included in the Bill of Rights of the Constitution of 1844, the Constitution of 1846, and again in the Constitution of 1857; and so Iowa is entitled to the claim of being "the first free State in the Louisiana Purchase."

Reservation of Rents. — The provisions of section twenty-four are not found in the Constitution of 1846. They prohibit leases or grants of agricultural lands reserving rent for a longer period than twenty years. "This section," says Judge Emlin McClain, "seems to have been borrowed from New York, where the determination of the rights of tenants under long leases had become a subject of controversy; but there has never been any system of land tenure in this State to which the provision has been found applicable."

Rights Retained. — The last section of the Bill of Rights is in substance a repetition of the familiar expression of the political philosophy of the Revolution that "this enumeration of rights shall not be construed to impair or deny others, retained by the people."

Intoxicating Liquors. — In 1882 the people of Iowa voted to add a section to the Bill of Rights prohibiting the manufacture and sale of intoxicating liquors. In the following year, however, the supreme court of the State declared

that the amendment had not been properly adopted and was, therefore, no part of the Constitution.

The proposition was resubmitted in 1917, and defeated at the polls by 780 votes.

Iowa, however, ratified the Eighteenth Amendment to the Constitution of the United States in January, 1919, which prohibits the manufacture and sale of intoxicating liquors within the United States or their importation or exportation. This amendment was proclaimed January 29, 1919, to have been properly adopted and made a part of the Constitution of the United States.

Although Iowa was listed as a "dry" State by virtue of the legislation of the 36th General Assembly, which took effect January 1, 1916, now Federal prohibition is enforced in Iowa as well as in all the other States of the Union as the result of the adoption of the Eighteenth Amendment.

The Sources of Our Rights. — It is a fact that the rights and liberties enumerated in the Constitution of Iowa are for the most part inheritances; they are not of local origin. They were originally in many instances unwilling concessions of English kings. What our ancestors fought and died for are to-day our most cherished political inheritances.

QUESTIONS ON THE TEXT.

1. What are the important parts of a constitution?
2. What purpose does the preamble of a constitution serve?
3. What are our political inheritances?
4. What may be said of the Iowa Bill of Rights?
5. Make a list of the ten rights you deem most important.
6. Why is it well that treason is carefully defined in the Constitution?
7. From what sources are our civil rights derived?

CHAPTER VII.

SUFFRAGE, ELECTIONS, PARTY MACHINERY.

The Right to Vote. — In order to be a leader one must have a following. In order to have representative government the people must have the right to choose persons to represent them. The right of choice we call the suffrage or the right of voting; and the mode and time of exercising this privilege we call the election.

We commonly speak of the *right* to vote. Yet voting is a privilege and not a right in the sense in which the guarantees and immunities listed in the Bill of Rights are considered. Many people believe that suffrage and citizenship are the same, that is, they seem to think that only those who vote are citizens. No greater mistake could be made; for citizenship is recognized membership in a political community and applies to all persons—men, women, and children—whose rights as citizens are equal. The constitution of a State provides what citizens or classes of citizens shall enjoy the privilege of voting, of holding office, and of participating in other political privileges.

Citizenship and Suffrage. — The Constitution of the United States defines citizenship by declaring that, "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside." The

States, therefore, cannot exclude from State citizenship any one who has been born or naturalized in the United States. But the States may make reasonable provisions relative to the residence in order to insure loyalty and attachment to the State government. Under the provisions of the Federal Constitution the States have had the exclusive right to determine who might be entitled to enjoy the privilege of voting within their borders, subject to the limitations imposed by the Fifteenth and Nineteenth Amendments to the Constitution of the United States. Some States allow unnaturalized foreigners to vote; and some refuse the ballot to persons who cannot read and write.

Voters in Iowa. — The constitution of Iowa extends the right to vote only to male citizens of the United States who are twenty-one years of age and who have resided within the State for six months and in the County sixty days preceding the election. There are, however, certain disqualifications. No idiot, or insane person, or person convicted of any infamous crime, shall exercise the privilege of voting; nor can any person in the military, naval, or marine service of the United States, who happens to be stationed in the State, claim State citizenship and the right to vote.

The women of Iowa gained their right to vote by virtue of the Nineteenth Amendment to the Federal Constitution, which forbids any State to deny or abridge the right of any citizen of the United States to vote on account of sex.¹

Elections. — To provide who shall be entitled to the

¹ Iowa ratified this amendment July 2, 1919, being the tenth State to do so.

suffrage is only one of the regulations as to voting. Provisions relative to how, when, and where the voting shall take place are of equal importance. An amendment to the Constitution of Iowa adopted in 1884 provides that the general election should be held on the Tuesday next after the first Monday in November; as did also the biennial election amendment of 1904. But in 1916 the amendment of 1884 was repealed and the General Assembly was authorized to fix the time of holding the general State election. Federal law requires that presidential electors, United States Senators and Representatives shall be chosen on the Tuesday next after the first Monday in November. Therefore until the Legislature exercises its right to change the time for the holding of the general State election (which it has not yet done) such elections will continue to be held as heretofore on the same day as Federal elections.

Voting a Duty. — While voting is a privilege, it should also be held a sacred duty by those who enjoy it; for the fate of the government rests in the hands of the people, and if they neglect to vote for good men and good measures, they will soon find selfish men promoting only selfish interests in control of public affairs. The census of Iowa for 1915 lists 684,639 males of voting age in the State — not taking into consideration, however, qualifications as to residence and naturalization. At the presidential election of 1916 the total number of votes cast in the State was 516,954. Some of the 167,685 stay-at-homes can be accounted for; but even after making liberal deductions for

the insane, the idiotic, prisoners, sickness, old age, and the like, it is apparent that there are still entirely too many upon whom the duty of casting a ballot rests too lightly.

Methods of Expressing the Popular Will. — The Constitution of the State has wisely left the Legislature to enact the details as to how the will of the people shall be expressed. Accordingly, provision has been made by law for the registration of voters, for the creation of election precincts, for the selection of election officers, for the form and printing of ballots, how ballots should be received, marked, returned, deposited, counted, and the like.

The earlier method of voting was *viva voce*, each voter orally announcing his choice. This was too public, and the demand for a secret ballot led to the adoption of written ballots, each party printing its own tickets. Finally, in 1892 there was adopted in Iowa the Australian ballot system by which all candidates appear on one ballot that is prepared and distributed by the State. The voter enters a closed booth and unobserved by any one makes his choice, marks his ballot, and returns it folded to the judges of election who deposit it in the ballot-box. Moreover, the Australian ballot system has been adapted to voting machines which are now in use in certain localities of the State. In 1919 the party circle was restored to the Iowa ballot by law. By making a cross in this circle the elector votes a straight party ticket.

Registration. — Registration becomes necessary where the number of voters is so numerous that all are not per-

sonally known to election officials. In Iowa voters are required to register prior to the general election in cities of 6000 population or over, and the voter must under oath answer questions put to him to test his right to vote in the ward or precinct.

Privileges of Electors. — Voters are also called electors, and the right of the qualified voter to cast his ballot is assured by making him exempt from arrest, except for treason, felony, or breach of the peace, while going to and from the polls. He is likewise exempt from military duty on election day, except in time of war or great public danger. During the Civil War the Iowa soldiers were not deprived of their ballots, for on September 11, 1862, the General Assembly of Iowa passed an act which provided for "a poll . . . whether within or without the State, where a Regiment, Battalion, Battery or Company of Iowa soldiers may be found or stationed"; and the votes were counted as if they had been cast in the State. Under this same act Iowa national guardsmen in service on the Mexican border in 1916 were also permitted to vote.

Absent Voters' Law. — In every community there will always be found voters who on account of business or other good reasons are unable to be at home on election day to personally cast their ballots. Prior to 1915 such persons lost their votes. Elections being held on Tuesday, commercial travellers were either obliged to forego the performance of their civic duties or lose two days on the road. In like manner students of voting age away at college were

obliged to incur the expense of returning home to vote or lose their votes. Now, however, any qualified elector of the State who is absent or expects to be absent from his home on election day or who on account of illness or physical disability is unable to go to the polls and vote in person may obtain, upon proper application, an official ballot, which he may vote and must return to the proper officer in his own county on or before election day in order to have it counted. Adequate provisions are made for the maintenance of the secrecy of the ballot both at the time of marking and counting the ballot. Where the provisions of the law are thoroughly understood the large number of persons of voting age but not voting ought to be very materially reduced.

Political Parties and Party Machinery. — How are the people to know who is best fitted for public office? As a matter of fact they do not always know. Indeed, few voters could make a list of the persons they voted for twenty-four hours after a general election. Intelligent men will vote for long lists of candidates of whom they know little or nothing, simply because they represent a certain group which is seeking to get control or retain control of the government. These groups are called political parties. They represent differences of opinion in the minds of men as to governmental policies. They hold conventions, draw up platforms, nominate candidates for office, and conduct campaigns in the hope that the policies they advocate and the men they nominate will be indorsed at the polls by a majority of the voters.

Early Political Machinery. — In the early history of Iowa men announced themselves through the newspapers as candidates for office, often declaring their views on important political questions at the same time. Later came the caucus and the convention, by which the smaller political subdivisions nominated candidates within their own boundaries and selected delegations to represent them in the next higher division. Thus a township caucus nominated township officers and appointed delegates to the county convention; the county convention nominated county officers and appointed delegates to the State convention; and the State convention nominated State officers and chose delegates to the national convention. Indifference on the part of many, manipulation of caucuses and conventions by self-appointed bosses, and selfish men promoting selfish interests led in time to general dissatisfaction with the nominating system, not only in Iowa, but throughout the United States. There was a demand for a system strictly regulated by law, according to which each voter could express his choice of party candidates with the same degree of secrecy as at the general elections.

The Primary Election. — After several unsuccessful attempts in the Legislature the present primary election law was adopted in 1907. By the provisions of this law any person desiring to become a candidate for office first obtains a nomination paper blank, either from the Secretary of State or from the County Auditor, according to the office he seeks. This nomination blank must then be signed by one per cent of the voters of his party in at least

ten counties of the State, or not less than one-half of one per cent of the total vote of his party as shown by the last general election if the office sought is a State office, United States Senator, or Elector at Large. The nomination blanks for county offices must be signed by at least two per cent of the party vote in the county. Candidates for all other offices (except township offices) must file blanks bearing the signature of at least two per cent of their party voters in half of the counties represented, or one per cent of the total party vote in the district. Thus if A desires to be a candidate for the office of Sheriff and he finds that his party cast 2000 votes at the last election, his nomination paper must bear the *bona fide* signatures of forty voters who are also members of his party. Having obtained the necessary number of signatures, a candidate for County office must thirty days prior to the primary election—and all other candidates (except for township offices and judges) must forty days prior to the primary election—file in the office of the County Auditor or Secretary of State, as the case may be, his nomination papers in order to get his name printed on the primary election ballot.

Time and Manner of Voting.—The primary election is held on the first Monday in June in even numbered years. At this time each qualified voter, when he presents himself at the polls, declares his party affiliation and receives the ballot of his party and indicates his choice according to the Australian ballot system. If there are only two candidates seeking nomination for the same office, then one is sure to have a majority, or else there will be a tie.

Tie votes are determined by lot by the Board of Canvassers. In case there are three or more candidates for nomination, no one is considered as entitled to the nomination of his party unless he has received thirty-five per cent of his party vote (except candidates for township officers). In case no one receives thirty-five per cent of his party vote, then the convention called in compliance with the primary election law is authorized to make the nomination. It sometimes happens that the one having the highest number of votes at the primary is not the choice of the convention.

Political Parties Legalized. — Political parties being thus recognized by law in Iowa, our government is party government. The qualified voters are given the widest freedom in the choice of party candidates for nomination and also in choosing among the candidates named by the different parties. Thus, a Republican who chooses among a number of Republican candidates for nomination may freely vote for the Democratic candidate at the final election.

Party government may become corrupt; but the voters are absolutely free to rebel and withdraw from their party if they cannot reform it. They may join other parties, or organize a new party which they believe better represents the public welfare.

QUESTIONS ON THE TEXT.

1. Do all citizens vote?
2. Are all voters citizens?
3. Who are qualified to vote in Iowa?
4. To what classes of persons is the ballot denied?

5. When are general elections held?
6. Why is it the duty of every qualified citizen to vote?
7. What is the Australian ballot system?
8. What is a political party?
9. What is a primary election? How does it work?
10. How may the voter rebuke his party if it is corrupt?

ADDITIONAL READINGS.

NOTE.—I. J. H. P. = *Iowa Journal of History and Politics*.

Origin and Organization of the Republican Party in Iowa, I. J. H. P., Vol. IV, p. 487.

The History and Principles of the Democratic Party in Iowa, 1846-1857, I. J. H. P., Vol. VI, p. 163.

The History of Political Parties in Iowa from 1857-1860, I. J. H. P., Vol. VII, p. 119.

Primary Elections in Iowa, Iowa Applied History Series, Vol. I, p. 261.

Corrupt Practices Legislation in Iowa, Iowa Applied History Series, Vol. I, p. 303.

CHAPTER VIII.

THE LEGISLATIVE DEPARTMENT.

The Three Departments of Government. — All modern constitutions recognize the principle of the separation of the powers of government; and the threefold classification of legislative, executive, and judicial is universally adopted. The Iowa Constitution provides for this separation of powers and demands that those exercising the powers properly belonging to one department shall not exercise any powers belonging to either of the others, except as expressly permitted. Thus, the people are guaranteed that the Legislature will confine its activities to the making of laws; that the Governor and other executive officials will execute, not make the laws, and that the Judges will confine themselves to interpreting the law and applying it to particular cases.

The General Assembly. — The law-making department of the State of Iowa is called the General Assembly, which consists of two houses — a Senate, or upper house, and a House of Representatives, or lower house. In the making of laws the two houses are coördinate and equal.

Sessions of the General Assembly. — The sessions of the General Assembly are biennial, that is, regular meetings are held every two years, beginning on the second Monday

in January in the odd numbered years. Extra sessions may be held at other times at the call of the Governor. The sessions of the General Assembly are held at the State House in Des Moines, unless on account of pestilence or public danger the Governor should convene it at some other place. The proceedings of the two houses of the General Assembly are usually public, though the doors may be closed whenever in the opinion of the houses the subject under discussion requires secrecy.

Adjournment. — There is no time set by law for the adjournment of the General Assembly; but it usually adjourns by the middle of April, which makes the legislative period about ninety days. Each house sits upon its own adjournment; but neither can without the consent of the other adjourn for more than three days or to any other place. However, in case the two houses cannot agree upon the time of adjournment, the Governor may adjourn the General Assembly to such time as he may think proper, but not beyond the date fixed for its next regular meeting.

The Scope of Legislative Power. — The Federal Constitution left to the States power to legislate on all subjects not granted to Congress or specially denied to them. Moreover, the earlier State constitutions placed almost no restrictions upon the power of the legislatures which they created. Experience, however, has shown that the representatives of the people cannot always be trusted with unlimited authority. Many State legislatures have been corrupt and extravagant, and have betrayed the people's interests. The General Assembly of Iowa has, however, a

very clean record. Nevertheless, the framers of the Constitution of Iowa thought it wise to place certain restrictions upon the power of the General Assembly. Many of these restrictions are imposed as much to protect the Legislature from annoyance as to protect the people.

Local and Special Laws. — The General Assembly may not pass *local* or *special* laws for the assessment and collection of taxes for State, County, or road purposes; or for laying out, opening, and working roads or highways; or for changing the names of persons; or for the incorporation of cities and towns; or for locating roads, town plats, streets, alleys, or public squares; or for locating or changing County seats. The General Assembly may legislate upon these subjects, but its laws must be general and of uniform operation throughout the State, thus avoiding the demand for special favors.

Areas and Boundaries of Counties. — The boundary lines of counties cannot be changed by the General Assembly without the approval of the people in the County affected. In addition the General Assembly is prohibited from organizing any new counties with less than 432 square miles or reducing any organized county below that area — the northern tier of counties west of Worth being excepted.

Divorces. Lotteries. — The General Assembly is prohibited from granting divorces; nor may it authorize lotteries, or the sale of lottery tickets.

Districts. — In arranging Congressional, Senatorial, or Representative districts no County may be divided; and

if such district is composed of two or more counties such counties must be contiguous.

Debts. — The General Assembly cannot authorize any County, town, or city to incur debts beyond five per cent of the value of its taxable property — a provision which has kept the cities of the State from making public improvements beyond their means and allowing future generations to pay the bills.

Credit. — The General Assembly cannot give or loan the credit of the State or assume the debts of any one, except in time of war and then only for the benefit of the State. Nor can the General Assembly contract debts in excess of \$250,000, except in cases of invasion, insurrection, or the defence of the State in time of war.

Appropriations. — No money can be drawn from the treasury of the State without an act appropriating the same having first been passed.

Extra Compensation. — Nor can the General Assembly without a two-thirds vote of the members of each house pay any extra compensation after a service has been rendered, or pay any claim which has not been previously provided for by law, or appropriate any public money or property for local or private purposes.

Corporations. — The Legislature can create no corporations by special act, or become a stockholder in any, or permit any political or municipal corporation to become a stockholder in any banking corporation, directly or indirectly.

Other Prohibitions. — In addition to these prohibitions the General Assembly is bound by the prohibitions contained in the Bill of Rights to which reference has already been made.

The Census. — The Constitution especially directs that the General Assembly shall cause an enumeration to be made every ten years of all the inhabitants of the State.

Introduction and Passage of Bills. — The two houses of the General Assembly, as already noted, are equal in power. Bills may, therefore, originate in either house, and may be amended, altered, or rejected by the other. Private citizens may draw up bills proposing legislation, but their introduction is exclusively a privilege of the members of the Assembly. Any member may refuse to introduce such bills. He may introduce them “by request,” or he may assume the responsibility for them. In order to pass the General Assembly, a bill must receive the affirmative votes of a majority of all the members elected to each house (not merely a majority of those present or of those voting), and the vote of the members is made a matter of record on the journals. A bill must pass both houses in identically the same form. Thus, if amendments are made in one house to a bill passed by the other, it must go back to the house in which it originated, where it must be again passed as amended. When neither house is disposed to accept the amendments of the other, a conference committee, composed of members of both houses, usually agrees upon certain compromises which are generally accepted by both houses. A bill having passed both houses in identically the same

form must be signed by the presiding officer of each house, before being presented to the Governor. Every law passed by the General Assembly must have the following as its enacting clause: "Be it enacted by the General Assembly of the State of Iowa." No act may deal with more than one subject, which subject must be expressed in the title.

The Approval and Veto of the Governor. — Every bill which has passed the General Assembly in the manner just described is presented to the Governor for his approval. If he approves it, he signs and dates it. If he does not approve the bill, he returns it with his objections to the house in which it originated. There it is reconsidered, and if it receives a majority of two-thirds of the members of each house, it becomes a law in spite of the Governor's disapproval. In such cases the presiding officer of each house signs the bill and certifies to the same, whereupon it becomes a law without the Governor's approval. If, however, the Governor fails to return a bill, either with or without his approval, within three days after it is presented to him (Sundays excepted) it becomes a law just as if he had signed it, and the Secretary of State authenticates it and declares it to have become a law. Should the General Assembly adjourn before the three days given the Governor to sign a bill expire, he is then given thirty days in which to approve or disapprove of the bill and to deposit it with the Secretary of State. If he files with the Secretary of State a bill within the prescribed time without approval or disapproval, the bill does not become a law.

Rules of Procedure. — The Constitution vests each house with authority to choose its own officers and judge of the qualifications, election, and return of its own members, and also to determine its own rules of procedure. The General Assembly has provided by law the procedure of organization in each house. Custom has also dictated much of the procedure. For instance the House of Representatives is usually called to order by the senior member from Polk County, while the Lieutenant Governor whose term of office does not expire until his successor has been elected and qualified calls the Senate to order, and presides until the ballots for Lieutenant Governor have been counted.

At ten o'clock A.M. of the day of meeting, the two houses are called to order. In the Senate the members proceed to elect a temporary secretary; while in the House a temporary clerk is chosen. These temporary officers receive the certificates of election of the members. Then a committee of five in each house is chosen to examine and report upon the credentials of all the members. The reports of these committees determine who in each house are the *bona fide* members. These members, after taking an oath to support the Constitution of the United States and the Constitution of the State of Iowa and to faithfully discharge the duties of Senator or Representative, as the case may be, to the best of their ability, elect permanent officers and proceed to business. The first official act of each house after organization is effected is usually to notify the other house and the Governor that it is organized and ready to proceed to business or to hear any message that the Governor may wish to send.

Journal of Proceedings. — The Constitution directs that each house shall keep a journal of its proceedings and publish the same, and that whenever persons are elected to office by the General Assembly the members thereof must vote orally (*viva voce*) and the votes must be entered on the journal. Thus, the action of every member of the Assembly is made a matter of public record. During the long deadlock in the election of a successor to the late Senator Dolliver, the journals daily contained the monotonous roll of votes for the several candidates.

An electrical and mechanical system for the instantaneous registration of the votes of the members of the House of Representatives on all questions requiring a roll-call was ordered installed before January 1, 1920, by the Thirty-eighth General Assembly.

Publication of the Laws. — It is a common saying and a well-known legal principle that ignorance of the law excuses no one. The people must, however, be given a reasonable opportunity to know what the law is. The General Assembly has accordingly directed the Secretary of State to publish within fifty days after adjournment all laws, resolutions, and memorials passed, and a liberal distribution of the same is also provided for. All laws of a public nature passed at a regular session take effect upon the fourth day of July next after their passage. Laws passed at special sessions take effect ninety days after the adjournment. But acts deemed of immediate importance take effect upon publication in such newspapers as the Assembly may designate. From time to time the laws are

arranged according to subject-matter in a code. The revision of the code of 1897 is now (1921) under consideration.

Public Money. — The Constitution further directs that an accurate statement of receipts and expenditures of the public money shall be published along with the laws of each regular session, so that the taxpayer may know for what purpose money has been collected and spent.

QUESTIONS ON THE TEXT.

1. What are the three great departments of government?
2. What are the functions of each department?
3. What is the General Assembly of Iowa?
4. When does the General Assembly convene?
5. When may the Governor adjourn the General Assembly?
6. Why are limitations placed upon the power of the General Assembly?
7. Name three things that the General Assembly must do.
8. Name three things that the General Assembly cannot do.
9. How many votes are required to pass a bill in the General Assembly?
10. What is the Governor's part in legislation?
11. What is the purpose of requiring each house to keep a journal of its proceedings?
12. Why should the laws be published?

ADDITIONAL READINGS.

History and Organization of the Legislature of Iowa, Iowa Applied History Series, Vol. III, p. 3.

Law-Making Powers of the Legislature in Iowa, Iowa Applied History Series, Vol. III, p. 139.

Some Abuses Connected with Statute Law-Making, Iowa Applied History Series, Vol. III, p. 613.

Methods of Statute Law-Making in Iowa, Iowa Applied History Series, Vol. III, p. 196.

CHAPTER IX.

THE HOUSE OF REPRESENTATIVES, OR LOWER HOUSE.

The Bicameral System. — Historically the lower house of the legislature represented the people, while the upper house represented a special interest or class. Now, however, both branches of our State legislatures are elected by and represent the people. The election district and term of office and the age and residence qualifications of members constitute the principal distinctions between the two houses. The chief value of the bicameral system lies in the fact that each house tends to check hasty or unwise legislation in the other. However, good legislation may thus be checked as well as bad.

Basis of Representation. — The Iowa House of Representatives is at present (by an amendment to the Constitution adopted in 1904) composed of 108 members. The original provision of the Constitution was that the House of Representatives should not be composed of more than 100 members. They were to be apportioned among the counties of the State arranged in representative districts; but no district was to contain more than four counties. In the northern and northwestern parts of the State, where the population was not so dense, a considerable number of three and four County districts had been formed. The

custom of political parties, in such cases, of passing the office of Representative around among the several counties in the district often left the interests of the other counties almost unrepresented. A demand was therefore made that each county should have at least one Representative. Accordingly the amendment of 1904 provides that each county shall be entitled to one Representative; while the nine counties having the largest population are each entitled to have one additional Representative.

The ratio of representation in the nine largest counties is determined by dividing the total population of the State by the total number of counties. As the State and national censuses are taken but five years apart, no injustice is done any County, for the General Assembly must fix the ratio and apportion the additional representation at their first meeting following the taking of such census.¹

Election of Members. — The members of the House of Representatives are chosen every two years at the general biennial election in November. Their term of office begins on the first day of January following their election and runs for two years and until their successors are elected and qualified. The rules governing contested elections are determined by the General Assembly.

Qualifications of Representatives. — The earlier State constitutions surrounded public office, especially legislative and executive offices, with so many qualifications

¹ The nine counties entitled to an additional representative according to the last census are: Polk, Dubuque, Woodbury, Linn, Scott, Pottawattamie, Clinton, Black Hawk, Wapello.

that only a small portion of the inhabitants were really eligible. The democratic spirit of the West, where all had to work and where interests were common, fostered a spirit of equality, in which family ancestry and worldly possessions did not make one man any better than another. Naturally in these newer States in providing the qualifications for voters and the qualifications for office many of the older restrictions were discarded. Only sex, citizenship, age, and residence were retained as qualifications.

To be eligible to the Iowa House of Representatives one must be a male citizen of the United States, twenty-one years of age; one must have been a resident of the State for the year preceding his election, and must have had an actual residence in the County sixty days prior to his election. These qualifications are reasonable and just, since it would be manifestly unwise to allow foreigners to make our State laws. Nor would legislation enacted by persons under age receive the mature consideration that it should have. In fact the people of Iowa are not prone to trust the function of law-making to very young men. The youngest man in the Thirty-third General Assembly (1909) was twenty-four years old and the oldest was seventy-three; while the average age of the entire House of 108 members was nearly fifty years. But three of the 108 members had lived in the State less than fifteen years, and none less than six years; while the great majority of them had lived in Iowa from twenty-five to thirty years. Thus it is seen that the people of Iowa really demand higher age and residence qualifica-

¹ The adoption of the Nineteenth Amendment to the Constitution of the United States renders the sex qualification in the Iowa Constitution inoperative.

tions than are prescribed in the Constitution. These insure not only a permanent interest and attachment to the State on the part of the Representatives, but they also give the State the benefit of that mature judgment which age and experience bring.

Disqualifications. — Having mentioned the qualifications, it now remains to note the disqualifications for membership in the House of Representatives. No person holding a lucrative office under the United States or the State of Iowa is eligible to a seat; but offices in the militia to which there is no salary attached, and the offices of justice of the peace and postmaster, whose compensation does not exceed \$100 per year, are not considered as lucrative. No person who is a collector or holder of public money can hold a seat in the General Assembly until he has accounted for and paid into the treasury all sums for which he is liable. Nor can any one while he is a member of the Assembly be appointed to any office of profit which has been created or the compensation of which has been increased during his term unless it be an office filled by popular election.

Vacancies. — The theory of our government is that the people should never be without a representative in any legislative body, even though no session of the same is at all probable before the people have an opportunity to make a choice at the next regular election. No one can tell when the Governor may deem it necessary to call the Assembly in extra session; and so the Constitution has provided that whenever vacancies occur in either house the Governor

shall issue writs of election to fill such vacancies at special elections. Frequently the persons so elected may never take the oath of office or be called to attend a session of the General Assembly. Only when the Assembly is in session is the filling of vacancies a matter of importance.

Compensation. — The payment of legislators is universal in the United States; but in most cases the compensation is small in proportion to the time and service required. This often prevents good men from accepting legislative office, because they feel that they cannot afford to sacrifice their private interests. Unscrupulous men sometimes seek seats in legislative bodies, not for the compensation it affords, but for the opportunities for graft which arise in the course of legislation.

The Constitution of Iowa originally provided that members should receive \$3 per day while in session and \$3 for every twenty miles travelled in going to and coming from the seat of government; but the General Assembly was authorized to change the compensation, providing that no Assembly should increase the pay of its own members.

In 1880 the compensation of each member of the General Assembly was fixed at \$550 for each regular session and mileage at five cents per mile, by the nearest travelled route, in going to and returning from the place of meeting. The Thirty-fourth General Assembly in 1911 increased the compensation of members to \$1000 per session, with mileage allowance as before. When the General Assembly is called in extra session, the compensation is to be at the

same rate per day as for the preceding regular session (but it must not exceed \$10 per day), with the same mileage as for regular sessions.

Privileges of Members. — Although the Bill of Rights guarantees to every person liberty of speech, no special immunity is guaranteed by the Constitution to members of the House of Representatives. The General Assembly, however, has by law provided that “no member shall be questioned in any other place for any speech or debate in either house”; and the House rules of the General Assembly usually provide that in speech or debate each member “shall confine himself to the question under debate and shall avoid personalities.”

The Constitution insures members freedom from arrest while going to or returning from the General Assembly or while it is in session, except in cases of “treason, felony, or breach of the peace.” This immunity, however, is not very great, for nearly all but the most petty offences will come under one of the three excepted cases. The General Assembly has further enacted that none of its members “shall be held to appear or answer in any civil suit or special action in any court while the general assembly is in session.” This immunity is of greater value, for it prevents persons from starting fake suits against members in order to call them into court when important business is being transacted in the General Assembly.

Every member of the General Assembly has “the liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and

have the reasons for his dissent entered on the journals." Each house is given authority by law to punish persons for contempt for the commission of certain acts against the privileges, dignity, or authority of its members.

Organization and Officers of the House. — The organization, officers, and procedure in the Iowa House of Representatives follow closely the system of the national House of Representatives in these particulars. The presiding officer is the Speaker, who is a member of the House, elected to his important position by his own colleagues on a strict party vote.

The Speaker exercises the greatest power and influence in the House since he appoints all committees. He may anticipate proposed legislation by placing on committees men whom he knows to be favorable or hostile to measures likely to be introduced. The Speaker holds his office until the first meeting of the House of Representatives next after that at which he was elected. Thus, in case of an extra session no time is lost in effecting an organization. The Speaker preserves order, and presides over the deliberations of the House, and votes in case of a tie or when the yeas and nays are called for. All other officers of the House, consisting of numerous clerks, doorkeepers, and pages are likewise chosen by the House itself.

Committees of the House. — The House determines the number of committees into which it shall divide itself for the consideration of bills and resolutions. Naturally some committees are of more importance than others, and the opening of a session usually witnesses a good deal of wire-

pulling by members to obtain chairmanships or positions on important committees. The Speaker often rewards his friends who have placed him in power by giving them places on the important committees, and sometimes a candidate for the Speakership even promises committee places in advance for support.

The House of Representatives of the Thirty-third General Assembly (1909) had sixty standing committees and every one of its 108 members had a place on eight or ten of them. The most important committees are those dealing with ways and means, appropriations, judiciary, railroads, and corporations. In order to give places to a large number of members on these important committees, they are often made so large that the real function of a committee — careful consideration of proposed measures — is frequently lost. Thus the House Committee on Ways and Means of the Thirty-third General Assembly was made up of forty-three members, nearly half of the whole membership; and of these forty-three, thirty-two were Republicans and eleven were Democrats. The important committee on appropriations contained thirty-eight members — thirty-one Republicans and seven Democrats. Of these, nine Republicans and three Democrats were also on the important Committee on Ways and Means. Thus the important subjects of legislation fall into the hands of comparatively few men; while many members are placed upon committees to which few or no bills are ever referred.

Special Powers. — The House of Commons in England enjoys the distinction of having the sole power of originat-

ing money or revenue bills; the lower house of Congress has the sole power of originating bills for raising revenue. Several of the States of the American Union have given this same power to their House of Representatives. In Iowa, however, the lower house enjoys no such privilege, for the Constitution provides that bills may originate in either house, and may be amended, altered, or rejected by the other. The only special power of the House of Representatives is that of impeachment, which is limited to accusation. All impeachments are tried by the Senate.

QUESTIONS ON THE TEXT.

1. What is the chief value of the bicameral system?
2. How many members are there in the Iowa House of Representatives?
3. What is the term of office and compensation of members of the House of Representatives?
4. What are the qualifications of members of the House of Representatives?
5. How are vacancies in the General Assembly filled?
6. What are the privileges of members of the General Assembly?
7. Why is the position of Speaker one of power and influence?
8. What are the most important committees of the House?

ADDITIONAL READINGS.

NOTE.—I. J. H. P. = *Iowa Journal of History and Politics*.

Assembly Districting and Apportionment in Iowa, I. J. H. P., Vol. II, p. 520.

The Speaker of the House of Representatives in Iowa, I. J. H. P., Vol. XVII, p. 3.

The Committee System in Iowa, Iowa Applied History Series, Vol. III, p. 535.

A Bribery Episode in the First Election of United States Senators in Iowa, I. J. H. P., Vol. VII, p. 483.

CHAPTER X.

THE SENATE OR UPPER HOUSE.

The Chief Features of the Iowa Senate. — The bicameral system is as firmly established in American government as is the principle of the separation of powers ; and every one of our forty-eight State legislatures is so organized, though often there is little or no difference in power between the two houses. The Senate or upper house of the Iowa legislature has no more power than the lower house. Its only claim to distinction is the longer term of its members and the higher age qualification.

Composition of the Senate. — The original provision of the Constitution provided that the number of Senators should never be less than one-third nor more than one-half the Representative body. At the same time another section provided that the Senate should not consist of more than fifty members. The amendment of 1904 provides that the Senate shall be composed of fifty members.

Election and Term of Office. — Senators are chosen by the qualified voters, in their respective districts, for a term of four years, twenty-one being elected at one general election and twenty-nine at the next. Those serving in the second session after their election are known as "hold-overs." In the Thirty-eighth General Assembly twenty-nine Senators were "hold-overs," and eleven out of the fifty

had had no former legislative experience. The "hold-overs," being familiar with legislative business, tend to give the Senate a little more dignity and influence in legislation than the House.

Qualifications of Senators. — That it was the intention of the framers of the Constitution to make the Senate the more dignified and conservative branch of the General Assembly is shown by the longer term of office given to Senators and the higher age qualification required of its members. Senators must be twenty-five years of age, and must possess the same qualifications as Representatives as to citizenship and residence. In the Thirty-eighth General Assembly the youngest Senator was thirty-one years of age, and only three members were under forty years of age. The disqualifications noted in respect to membership in the lower house apply equally to the Senate.

Vacancies, Compensation, Contested Elections, and Privileges of Members of the Senate. — Whenever vacancies occur in the Senate, they are filled in the same manner as vacancies are filled in the lower house. The compensation of Senators is the same as that of Representatives. But the Lieutenant Governor as president of the Senate receives double the compensation of a Senator. The provisions relative to contested elections and the privileges of members are identical with those already noted in connection with the lower house.

Organization and Officers of the Senate. — Although the Constitution of Iowa distinctly states that "each house

shall choose its own officers," it also states that "the Lieutenant Governor shall be President of the Senate." The other officers of the Senate, consisting of a president *pro tempore*, several secretaries, clerks, and a corps of door-keepers and messengers, are all chosen by the Senate itself.

Procedure in the Senate. — Like the House of Representatives the Senate adopts its own rules of procedure. Motions in the Senate are not seconded as they are in the House, but are put directly by the presiding officer. In debate members rise and address the chair as "Mr. President," and are required to confine themselves to the question under debate, avoid personalities and the imputation of improper motives.

Committees of the Senate. — Legislation proposed in the Senate is also referred to appropriate committees, though these committees are not always identical with those of the House. The Senate of the Thirty-third General Assembly had thirty-nine standing committees, numbering from four to eighteen members, and each Senator served upon eight of these committees. All of the committees are appointed by the president of the Senate, who may exercise more independent judgment than the Speaker of the House in making appointments because he does not owe his position to his colleagues. In addition to the regular standing committees of the Senate, select committees are created, as necessity requires, for the consideration of such matters as cannot conveniently be referred to any of the standing committees.

In the process of legislation committees are very power-

ful in promoting or rejecting proposed legislation, for ordinarily each house supports the majority report of its committees. A chairman of a committee may even prevent favorable action on a bill which he disapproves by failing to call the committee together.

Special Powers of the Senate. — The Constitution confers upon the Senate the right to try all cases of impeachment, the Senators being upon oath or affirmation during such trial; the concurrence of two-thirds of the members present is necessary to convict. Other special powers have been conferred upon the Senate by law, such as the confirmation of certain appointments made by the Governor. As a matter of fact the Senate of Iowa is as popular a representative body as is the House of Representatives.

QUESTIONS ON THE TEXT.

1. In what respects does the Iowa Senate differ from the House?
2. What is meant by "hold-over" Senators?
3. What are the qualifications of Senators in Iowa?
4. Who is the presiding officer in the State Senate?
5. How can a chairman of a committee influence legislation?
6. What special powers does the Senate enjoy?

ADDITIONAL READINGS.

NOTE.—I. J. H. P. = *Iowa Journal of History and Politics*.

Assembly Districting and Apportionment in Iowa, I. J. H. P., Vol. II, p. 520.

The Committee System in Iowa, Iowa Applied History Series, Vol. III, p. 535.

The President of the Senate in Iowa, I. J. H. P., Vol. XVII, p. 223.

CHAPTER XI.

THE EXECUTIVE DEPARTMENT.

The Governor. — “The Supreme Executive power of this State,” declares the Constitution of Iowa, “shall be vested in a Chief Magistrate who shall be styled the Governor of the State of Iowa.” He is usually accorded the title of “His Excellency.”

Election and Term of Office. — The term of office of the Governor is two years; and it is customary for the party in power to accord the Governor a second term. He is chosen by the qualified voters of the State at the general election in November. The election returns for Governor and Lieutenant-Governor are transmitted “to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly.” The person having the highest number of votes for Governor and the person having the highest number of votes for Lieutenant-Governor are then declared elected. In case of a tie in either election the General Assembly at once proceeds to elect one of the persons to the office for which he was a candidate. Contested elections are determined by the General Assembly by suitable legislation.

Oath of Office. — Within ten days after his election has

been declared by the General Assembly the Governor must qualify for his office by taking an oath administered by one of the Justices of the Supreme Court in the presence of the General Assembly in joint session. In this oath he promises to support the Constitution of the United States, the Constitution of the State of Iowa and to faithfully, impartially, and to the best of his ability discharge the duties of Governor of Iowa. Having taken the oath, he holds his office for two years from the time of his installation and until his successor is elected and qualified.

The Law of Succession. — Early political philosophers feared that anarchy and revolution would result in case the State should at any time be left without a responsible executive head. Hence the theory was advanced that the king never dies; for as soon as the old king expired, his successor became king, even though the new king were absent and ignorant of the death of the old king. This explains the saying "The king is dead: long live the king" — that is, long live the new king. The founders of American government had the same fears for the headless State; and to-day nearly all of the States elect at the same time with the Governor a person who must have the same qualifications and who is generally known as Lieutenant-Governor.

The Lieutenant-Governor. — In Iowa the Lieutenant-Governor presides over the deliberations of the upper house and receives twice the compensation allowed to members of the General Assembly.

It is the theory of the Iowa government in common with most of the States, that the office of Governor cannot be

vacant, since the Lieutenant-Governor immediately becomes Governor upon the death, resignation, or inability of the Governor to serve. However, if the inability of the Governor is only temporary, the Lieutenant-Governor acts only until the disability is removed, and in all other cases he serves for the remainder of the Governor's term. Should the Lieutenant-Governor, while acting as Governor die, resign, or become incapable of performing the duties of the office, then the president *pro tempore* of the Senate succeeds to the office of Governor; and should he likewise become incapable of performing the duties of Governor, then the office falls to the Speaker of the House of Representatives.

Resignation or Removal. — When a Governor resigns his office, he sends his resignation to the General Assembly if that body is in session; otherwise he deposits it with the Secretary of State.

Whenever a Governor, a State officer, or district or Supreme Court Judge is impeached, the punishment is "removal from office, and disqualification to hold any office of honor, trust, or profit, under this State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law."

Qualifications of the Governor. — The constitutional qualifications of the Governor of Iowa are limited to citizenship, age, and residence. He must have been a citizen of the United States and a resident of Iowa for the two years preceding his election; and he must be thirty years of age. It is a fact that the Governors of Iowa have all been considerably more than thirty years of age. The Governor is required by law

to keep his office at the seat of government, and should he refuse to do so, it is safe to say that he might be impeached and removed from office.

Compensation of the Governor. — The Constitution of Iowa is silent as to what the salary of the Governor shall be. Therefore the General Assembly has been free to establish such compensation as seemed just and necessary. The present compensation of the Governor of Iowa is fixed at \$5000 per year with an allowance of \$600 annually for house rent; and he also receives \$1200 per year for his services as a member of the Executive Council.

The Powers and Functions of the Governor. — The position of Governor in the States of the Union had risen to one of power and dignity before Iowa was admitted into the Union. And so the Constitution of 1857 made the Governor's office one of no mean proportions. Moreover, the General Assembly has constantly added to his powers and duties.

The Governor is charged with the faithful execution of the laws; that is, he is required to see that the laws are enforced. He is the keeper of the Great Seal of the State of Iowa; and all grants and commissions are signed by him and countersigned by the Secretary of State. The Governor's powers and functions may be conveniently considered under the following heads: —

Recommendations to the Legislature. — The Constitution makes it the duty of the Governor to send a message to the General Assembly at each regular session. In this

message the Governor reviews the condition of the State, submits a budget, and recommends such matters as he may deem expedient. It has been the custom for Governors to have their messages in printed form laid upon the desks of members of the General Assembly, and this custom prevails in many other States. Owing to the fact that a large part of the members do not take the time to read such communications carefully, recent Governors have read their messages in person before the two houses in joint session and have thus been able to center the attention of the legislators upon subjects deemed to be of importance. It is through the Governor's power of recommendation that he sometimes becomes the champion of popular political movements and often attains a national reputation, getting most of the credit for the good accomplished through new legislation.

Power of Convening, Adjourning, and Dissolving the Assembly. — The experience of our forefathers with executive power led them to believe it to be dangerous to the State to vest in the Governor power to dissolve a Legislature elected by the people. It is easy to provide for the convening of the Legislature; but, unless its sittings are confined to a limited number of days, there is always danger that the two houses may be unable to agree upon the time of adjournment. The Governor of Iowa may call the Assembly in extra session at any time; but it is only in cases of actual disagreement between the two houses as to the time of adjournment that he is empowered to adjourn the Assembly. In no case can he adjourn the Assembly be-

yond the time fixed for its next regular meeting. Nor can he be compelled to call an extra session if he is personally unwilling to do so. No Governor of Iowa has as yet been called upon to exercise the power of adjourning the Legislature.

Veto Power. — The implicit faith of the fathers of American government in a legislative assembly elected by the people and their distrust of executive power have been reversed. Sometimes Legislatures are corrupt; sometimes they lack wisdom; and frequently they show a tendency to extravagance. Experience has, therefore, taught us that we need have little fear of the Governor. Indeed, we have learned to look to him to safeguard the people's rights as against the Legislature. The Governor of Iowa is charged with the duty of signing all bills of which he approves. If he does not approve a bill, we say he vetoes it, that is, he returns it with his objections to the house where it originated. The chief value of this return is to give members of the General Assembly new light on the subject and to call public attention to the bill vetoed. The method of passing bills over the Governor's veto has been explained above in Chapter VI.

Appointing Power. — The only power of appointment given to the Governor of Iowa by the Constitution empowers him to fill all vacancies where no provisions are made in the Constitution or laws for filling such vacancy; but appointments so made cannot extend beyond the next session of the General Assembly or the next general election.

The General Assembly, however, has vested in the Governor power to appoint a number of officers, boards, commissioners, inspectors, and the like; but in some cases such appointment must be sanctioned by the Senate. The most important of these appointive officers are: the Adjutant-General, the Commissioner of Labor, members of the Board of Parole, Food and Dairy Commissioner, members of the State Board of Education, members of the Board of Control of State Institutions, State Librarian, members of the Board of Health, Oil Inspectors, and Mine Inspectors. (See below Table of Administrative Officers, Boards, and Commissions.) If a United States Senator should die in office, resign, or be expelled, the Governor may appoint some one to fill the place until the people shall elect a successor as required by law.

Power of Removal. — The Constitution does not grant to the Governor any power to remove officers; but after enumerating those who are subject to impeachment, it declares that “all other civil officers shall be tried for misdemeanors and malfeasance in office, in such manner as the General Assembly may provide.” By law it has been provided that all officers, members of boards, commissioners, and the like, appointed by the Governor may for certain causes be removed by a majority vote of the Executive Council, of which the Governor is a member. The Governor may also direct the Attorney-General to file complaint and prosecute cases against County attorneys, sheriffs, mayors, police officers, marshalls, constables, and members of the Board of Supervisors, and other officers, who may be removed by

the District Court upon the conviction of certain charges. A few minor officers may be removed by the Governor alone.

Military Power. — Practically all modern governments make the chief executive officer the commander-in-chief of the military forces of the State — not that he is the most skilful in arms, but because he is sworn to see that the laws are faithfully executed, and in the performance of this duty it may be necessary for him to call to his assistance the physical force of the State. As head of the military department of the State, the Governor may order such posse or military force from any other county or counties as is necessary to enforce the law. He also designates a staff of officers who receive military titles and frequently accompany him on ceremonial occasions. These appointments are generally political and not given because of military skill.

The Thirty-third General Assembly enacted an entirely new military code for Iowa and authorized the Governor to make and publish regulations and orders for the government, discipline, and uniforming of the Iowa national guard, not in conflict with existing laws.

Duties of the Governor. — The Constitution provides that the Governor “shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.” The General Assembly has required practically all State officers, boards, commis-

sions, and inspectors to report biennially to the Governor regarding the administration of their respective offices. The Governor approves the bonds of State officers, issues proclamations upon various subjects, notifies presidential electors of when and where to meet, and may offer rewards, not to exceed \$500, for the arrest of persons charged with crime punishable by death or imprisonment for ten years. He must keep a journal of all official acts performed by him, which record is known as the Executive Journal. He may issue writs of election to fill vacancies in either house of the General Assembly.

Pardoning Power. — The Governor of Iowa, in common with the chief executives of most States, may exercise the semijudicial power of granting reprieves, commutations, and pardons after conviction for all offences except treason and cases of impeachment, subject to such regulations as may be provided by law. In cases of treason he has power to suspend the execution of the sentence until the case can be reported to the General Assembly at its next meeting, when the Assembly is empowered to make final disposition of the case. The Governor also has power to remit fines and forfeitures, but he must report all such remissions with his reasons for granting them to the General Assembly.

In keeping with the modern theory of penology, the State of Iowa has organized a Board of Parole, which investigates individual cases and makes recommendations to the Governor relative to pardons and paroles. He is not necessarily bound by these recommendations, but usually follows them in exercising his pardoning power.

Besides these numerous official duties, our State Governors are usually overwhelmed with social duties. They are constantly called upon to deliver lectures and addresses, to participate in the dedication of public buildings, to entertain prominent Federal officials and officials from other States who visit the capital, and they usually make it a point to attend the funerals of noted men in the State. It has sometimes been said that in the performance of these unofficial duties our Governors have scarcely found time to attend to the duties of their office as prescribed by law.

Other Executive Officers. — The executive department is represented by other officers than the Governor. Probably the weakest feature of our State government is the lack of responsibility on the part of the leading executive officers to the chief executive; for the Governor cannot compel negligent officials to do their duty nor prevent one department from trying to secure legislation to the detriment of another. The principal executive officers are the Secretary of State, the Auditor of State, and the Treasurer of State, being named in the Constitution and elected by the people. The people also elect a Superintendent of Public Instruction.

The Secretary of State is head of the department of State. He countersigns all commissions and proclamations issued by the Governor and keeps a record of the same. He prepares the laws for publication. He must keep and preserve the original laws and resolutions of the Legislature, the original and authentic copies of the Constitution of Iowa

and of all amendments to it, all books, records, maps, registers, and other papers pertaining to his office, until turned over to the Hall of Archives. Certificates of nomination for State officers are filed in his office. He is required to publish and distribute the *Official Register*, which contains much valuable information relative to the State of Iowa. His duties are many and varied; and a number of minor officials are under his supervision. His term of office is two years, and his compensation is \$4000 annually, but he receives no additional pay as a member of the Executive Council.

The Auditor of State. — This official is the bookkeeper and accountant of the State of Iowa. He keeps an account of all revenues, funds, and incomes of the State, and of all disbursements. He draws all warrants on the State Treasurer in accordance with law. He reports to the Governor biennially all revenues, funds, income, taxable property, and other resources of the State. He apportions the interest of the permanent school fund among the several counties of the State. He has supervision of insurance, banking, municipal accounting, loan and trust companies, and building and loan associations. Claims against the State are presented to him for settlement. His term of office is two years, and his compensation is \$4000 per year.

The Treasurer of State receives and disburses the State revenues. However, he pays no money out of the State treasury except on warrants properly drawn by the State Auditor. With the advice and approval of the Ex-

ecutive Council he may designate one or more banks in the city of Des Moines as a depository or depositories for the collection of any drafts, checks, and certificates of deposit that may be received by him on account of any claim due the State. Such banks are required to pay to the State, on moneys remaining on deposit, interest at a rate agreed upon between the Treasurer and the bank with the approval of the Executive Council. In the fiscal period, 1906-1908, the State Treasurer reported having received to the credit of the State \$27,794.84 for interest on State funds. All told, the State Treasurer has the custody of about twenty-two millions of dollars in each biennial period. His bond, therefore, is unusually high, being in the sum of \$300,000, the highest of all the State officers. Like the two preceding State officers, his term of office is two years and his salary is \$4000 per year, with no additional compensation as a member of the Executive Council.

The Executive Council. — The Governor, the Secretary of State, the State Auditor, and the State Treasurer constitute the Executive Council of Iowa. It is not a body like the President's cabinet, for the Governor does not exercise any choice in the selection of its members, nor is he independent of the other members. In fact, the other three members may act without the Governor, for three members constitute a quorum for the transaction of business. The Executive Council is a creation of the General Assembly, and was established by an enactment in the Code of 1873. It is a body upon which the General Assembly has imposed a great variety of duties, the chief of which are the equali-

zation of assessments, the canvassing of election returns, the superintendence of the census, and the care and custody of the property of the State when no other provision is made, to procure for State officers, the General Assembly, and the Supreme Court all necessary fuel, light, supplies, furniture, and all paper for public printing and stationery for public officials. The Council approves the banks designated by the State Treasurer as depositories for the collection of drafts, receipts, etc., received for the State. It appoints the Board of Examiners for State Mine Inspectors. It audits and approves the accounts of a large number of officials and employees of the State, and by a majority vote it may remove from office, for causes stated in the law, members of the Board of Curators of the State Historical Society, members of the Board of Educational Examiners appointed by the Governor, the Director of the weather and crop service, the Fish and Game Warden, members of the Commission of Pharmacy, members of the Board of Dental Examiners, members of the Board of Parole, the State Dairy and Food Commissioner, Custodian of Public Buildings and Property, State Veterinary Surgeon, Oil Inspectors, members of the Commission of Animal Health, Inspectors of Passenger Boats, members of the Board of Optometry Examiners, and members of the Library Commission appointed by the Governor. Work on the Executive Council takes up a large part of the time of its members, and its activities are second only to those of the Legislature itself. The Governor is the only member of the Council who now receives extra compensation for his services,

Appointive Officers. — Provision is also made for numerous boards, commissioners, and inspectors, exercising executive power pertaining to their respective offices, which will be considered at some length in the next chapter. The high cost of government to-day is charged, to a large extent, to the needless duplication of work by numerous boards and commissions.

QUESTIONS ON THE TEXT.

1. What is the exact method of electing a Governor in Iowa?
2. What is the Governor's oath of office?
3. What are the functions of a Lieutenant-Governor?
4. What is the compensation of the Governor? Of the Lieutenant-Governor?
5. Name five powers of the Governor of Iowa.
6. What is the Executive Council and what are its functions?
7. What are the duties of the Secretary of State?
8. What are the duties of the State Auditor?

ADDITIONAL READINGS.

The Messages and Proclamations of the Governors of Iowa from 1836 to 1901 have been published in seven volumes by the State Historical Society of Iowa.

The Executive Veto in Iowa, I. J. H. P., Vol. XV, p. 155.

Two articles in the Applied History Series, Vol. II, show the Governor's part in the Appointment and removal of public officers in Iowa. See pp. 317 and 389.

CHAPTER XII.

ADMINISTRATIVE OFFICERS, BOARDS, AND COMMISSIONS.

Administration. — In the last chapter we considered, in addition to the chief executive, the more important executive officers elected by the people. A study of the executive department of government, however, must be made to include that numerous and important group of officials known as the administrative officers. We frequently speak of the Governor and the chief State officers as the administration. But in addition to these there is a large number of individuals or groups of individuals usually receiving their offices by appointment, who perform duties prescribed by the legislature. These administrative organs are generally designated as boards, commissions, inspectors, commissioners, wardens, or superintendents.

The Chief Boards. — The chief of these administrative organs are: the Board of Control of State Institutions, the State Board of Education, and the Board of Railroad Commissioners. Prior to July 1, 1898, there existed in Iowa a large number of separate boards, each charged with the care and administration of some particular institution established either for the purpose of maintaining social order

or of carrying out some of the numerous optional functions of government. In more recent years many of these boards have been abolished and their duties transferred to the chief boards above mentioned.

The Board of Control. — By a law which became effective on July 1, 1898, a board of three persons, appointed by the Governor and confirmed by the Senate, was given the power to manage, control, and govern the charitable and penal institutions of the State. When the State Sanatorium for the Treatment of Tuberculosis was established by law in 1905, it also was placed under the Board of Control. Likewise the Board of Control was directed by the General Assembly to provide for the detention and treatment of dipsomaniacs and inebriates at one or more of the hospitals for the insane. The departments thus created were to be known as hospitals for inebriates. By an act of the Thirty-fourth General Assembly, in 1911, the care and management of the College for the Blind was placed under the care of the State Board of Education, and in 1917 the State School for the Deaf was likewise given to their care.

The members of the Board of Control of State Institutions hold office for a term of six years, one of their number retiring every two years. Each member receives \$4000 per year for his services, and is allowed all necessary travelling expenses.

The duties of the Board of Control are numerous and often trying, for they have many minor officials to superintend, the purchase and regulation of supplies to look after, the maintenance of a uniform system of bookkeeping, and

the keeping of separate accounts with each institution. The institutions at present under the management of the Board of Control of State Institutions are the following: —

The Iowa Soldiers' Home at Marshalltown.

The Iowa Soldiers' Orphans' Home at Davenport.

The Institution for Feeble-minded Children at Glenwood.

The State Sanatorium for the Treatment of Tuberculosis at Oakdale (near Iowa City).

The Training School for Boys at Eldora.

The Training School for Girls at Mitchellville.

The State Juvenile Home for children under fifteen years of age at Toledo.

The Mt. Pleasant State Hospital for Insane at Mt. Pleasant.

The Independence State Hospital for Insane at Independence.

The Clarinda State Hospital for Insane at Clarinda.

The Cherokee State Hospital for Insane at Cherokee.

The State Hospital for Inebriates at Knoxville.¹

The State Hospital for Female Inebriates at Mt. Pleasant.

The Penitentiary at Ft. Madison.

The Men's Reformatory at Anamosa.

The Woman's Reformatory at Rockwell City.

The State Hospital and Colony for Epileptics at Woodward.

The State Board of Education. — The success of the Board of Control of State Institutions in managing effi-

¹In 1919 the Board of Control was authorized to abolish this hospital and transfer its few remaining patients to other State institutions. The closing of this hospital is the direct result of prohibition.

ciently and economically the institutions under their care soon led to a demand for a central board to manage the three higher educational institutions of the State; namely, the State University at Iowa City, the State College of Agriculture and Mechanic Arts at Ames, and the State Teachers' College at Cedar Falls.

It was in 1909 that the General Assembly passed an act creating the State Board of Education. This Board consists of nine members, appointed by the Governor and confirmed by a two-thirds vote in the Senate. They are appointed for a term of six years, three of their number retiring every two years. Not more than five members may belong to the same political party, and not more than one alumnus from each of the three institutions may be on the Board at the same time.

The State Board of Education is given full power to fill all positions, academic, administrative, and clerical, in the three institutions named, to fix all compensations, to make rules and regulations for their government, and to manage and control all property belonging to them. For the general supervision of the financial affairs of the educational institutions the Board of Education chooses from outside of their own number three persons who constitute the Finance Committee. The members of this Committee devote all their time to this work, hold office for three years, unless removed by a two-thirds vote of the Board, and receive each an annual compensation of \$3600 along with necessary travelling expenses. The members of the Board are allowed \$10 per day for their services, but such allowance shall not be made for more than sixty days in any one year.

The College for the Blind at Vinton and the School for Deaf at Council Bluffs have also been placed under the control of the State Board of Education, since the work of these institutions is educational in character.

The Board of Railroad Commissioners. — This important board consists of three members elected by the people at the general election for State officers. Their term of office is four years and their compensation is \$3600 per year, with necessary travelling expenses and free transportation upon the railroads of the State.

The Board of Railroad Commissioners has general supervision of all railroad and express companies within the State. It is the duty of the Board to see that railroads and their equipment comply with the requirements of law in the interest of public health and public safety, and to prosecute violations of the State law relative to rates and charges.

Office of the Commerce Counsel. — By free passes and special favors in the matter of rates and charges, railroad and express companies became powerful factors in the State politics, and for a long time they were successful in defeating legislation which was intended better to regulate and control them. With the passage of laws prohibiting passes and discriminating rates, the Board of Railroad Commissioners found it nearly impossible to prosecute all cases of violation of the State laws. It was in order to make the work of the Commissioners more effective that the Thirty-fourth General Assembly, in 1911, established

in connection with the Board of Railroad Commissioners the office of Commerce Counsel.

The Commerce Counsel, who must be an attorney of the State, is appointed by the Board of Railroad Commissioners, subject to the approval of two-thirds of the members of the Senate in executive session. He holds the office for four years and receives a compensation of \$5000 per year.

The Commerce Counsel is the legal adviser of the Board of Railroad Commissioners and his chief duties are to investigate the reasonableness of rates charged or to be charged by railroad and express companies, and whenever such rates or charges are unjust, unlawful, or unreasonable, to institute proceedings and prosecute the same before the Iowa Board of Railroad Commissioners or the United States Interstate Commerce Commission, according as they affect intrastate or interstate business.

The regulation of railroad rates within a state has heretofore been looked upon as a State function. But the Federal transportation act of 1920, giving the Interstate Commerce Commission power to fix rates which will yield a predetermined rate of interest, seems to have deprived the States of their rate-making power.

The Functions of Government. — It would be difficult to make a definite and complete enumeration of the functions of government, for the list is constantly expanding to meet the growing needs of society. The functions of government have sometimes been classified as *essential* and *optional*. By essential functions of government we mean those activities of the State which aim to preserve its own

existence and to maintain internal order, including the protection of life, liberty, and property. By optional functions of government we mean those activities of the State which are undertaken to promote the general welfare of its citizens along moral, intellectual, and economic lines. They include many activities which, if not undertaken by government, would be discriminatingly or inefficiently performed by private agencies, or perhaps they would not be undertaken at all.

As the State has undertaken new functions, it has created special agents to see that these functions are properly performed. Thus there has been established in Iowa a large number of offices, boards, and commissions. It would be impracticable to give a detailed description of all of these agencies of the State, but a brief outline of each is included in the table below. A further discussion of the functions of government will be considered in the last chapter. In the table here presented it is intended only to give the names of the State agencies, the method of appointment, the term of office, the compensation, and duties prescribed by law.

These boards and commissions are all created by legislative action, and may be abolished, consolidated or expanded by the General Assembly. It is therefore difficult to compile any data relative to them which will remain accurate and up-to-date for any length of time.

From time to time suggestions have been made for the consolidation of these boards and commissions into a few well-organized departments under the control of the Governor, and it seems quite likely that some such plan will be adopted in the near future, in the interests of economy and efficiency.

TABLE OF ADMINISTRATIVE OFFICERS.

| NAME OF OFFICE | HOW CHOSEN | TERM OF OFFICE | YEARLY SALARY | POWERS AND DUTIES |
|--|---|----------------|---------------------|---|
| Adjutant General and Custodian of Public Buildings | Appointed by Governor with consent of Senate | 4 yrs. | \$3000 | Issues and transmits all orders of the Commander-in-Chief. Keeps the military records of the State. As Custodian he has charge of Capitol Building and Grounds |
| Director of Weather and Crop Service | Appointed by Governor on recommendation of State Board of Agriculture | 2 yrs. | \$1500 | Establishes two or more volunteer weather and crop stations in each county. Tabulates reports for permanent records of climate and crops. Issues publications relative to weather and crops |
| Fish and Game Warden | Appointed by Governor | 3 yrs. | \$2400 | Has charge of the restocking and distribution of fish and game in the State. Appoints numerous deputies to aid in the enforcement of the fish and game laws of the State |
| Food and Dairy Commissioner | Appointed by Governor | 2 yrs. | \$3300 ¹ | Inspects creameries and dairies, enforces the pure food laws, the stock food and seed laws, and the paint law. Has charge of the weights and measures |
| Hotel Inspector | Appointed by the State Board of Health | 2 yrs. | \$2400 ¹ | Required to inspect every hotel once each year or oftener on the complaint of three or more patrons. Enforces laws relative to construction, fire escapes, and sanitation |

¹ Entitled to necessary travelling expenses.

TABLE OF ADMINISTRATIVE OFFICERS—*Continued.*

| NAME OF OFFICE | HOW CHOSEN | TERM OF OFFICE | YEARLY SALARY | POWERS AND DUTIES |
|---------------------------|---|----------------|--|---|
| Inspector of Bees | Appointed by State Board of Education and connected with the Agricultural College | Indefinite | \$1500 appropriated for this work | Inspects apiaries for disease known as "foul brood" to give instructions for treatment of same. May destroy infected colonies if necessary |
| State Inspectors of Boats | Appointed by Governor; as many as necessary | 2 yrs. | Fees collected | Inspects sail and steamboats plying upon the inland waters of the State, and issues certificates for same. Also issues certificates to engineers and pilots |
| State Fire Marshal | Appointed by Governor with consent of Senate | 4 yrs. | \$2500 | Devotes his entire time to the work. Appoints deputies and inspectors to investigate the cause and origin of every fire and make a record of the same. Examines buildings and compels owners to render same safe from fire. Requires teachers to hold fire drills |
| State Inspectors of Oils | Governor appoints 14 inspectors, one of whom is designated as Chief Inspector | 2 yrs. | Chief Inspector \$2200; others \$100 per month | Examine and test all oils offered for sale and mark the same approved or rejected |
| State Mine Inspectors | Governor appoints three and assigns each to a district | 4 yrs. | \$2700 ¹ | Examine and inspect the mines of the State and enforce the laws relative to safety and sanitation therein |

¹ Entitled to necessary travelling expenses.

TABLE OF ADMINISTRATIVE OFFICERS—*Continued.*

| NAME OF OFFICE | HOW CHOSEN | TERM OF OFFICE | YEARLY SALARY | POWERS AND DUTIES |
|---------------------------|--|----------------|---------------|--|
| StateVeterinary Surgeon | Appointed by Governor | 3 yrs. | \$3000 | Has supervision of all contagious and infectious diseases among domestic animals within the State or in transit through the State. Is ex officio a member of the State Board of Health, the Department of Agriculture, and the Commission of Animal Health |
| Commissioner of Insurance | Appointed by the Governor with consent of the Senate | 4 yrs. | \$3600 | Has general control, supervision of all insurance business in the State, enforces the insurance law, and examines insurance companies to determine their solvency. |
| Superintendent of Banking | Appointed by the Governor with consent of the Senate | 4 yrs. | \$4000 | He is the head of the Banking Department of Iowa and has general control and supervision of all banks and trust companies in the State |
| Industrial Commissioner | Appointed by the Governor with consent of the Senate | 6 yrs. | \$3300 | Has jurisdiction in adjusting claims for personal injury arising out of and occurring in employments other than agricultural, clerical, domestic, or casual |

BOARDS, COMMISSIONS, BUREAUS, DEPARTMENTS, AND INSTITUTIONS.

ADMINISTRATIVE OFFICERS.

99

| NAME | COMPOSITION | HOW CHOSEN | TERM OF OFFICE | COMPENSATION | POWERS AND DUTIES |
|---|------------------|--|---|---|--|
| Board of Curators of the State Historical Society of Iowa | Eighteen members | Nine appointed by the Governor and nine elected by the members of the Society | 2 yrs. | None | Has charge of the affairs of the State Historical Society of Iowa located at Iowa City. Its chief function is the collection of a library and to secure and publish facts relative to the history of Iowa |
| Board of Dental Examiners | Five members | Appointed by the Governor | 5 yrs. | \$5 per day ¹ | Examine and license applicants having diplomas from a reputable dental school to practice dentistry in Iowa |
| Board of Educational Examiners | Six members | Four ex officio members, viz. Supt. of Public Instruction, Pres. State University, Pres. Iowa State College, Pres. State Teachers' College, and two appointed by Governor, one of whom must be a woman | Term of appointed members is four years | The ex officio members receive only actual expenses, while the non-salaried members receive in addition \$3 per day | Prepares questions for the examinations conducted by the County superintendents, as well as those conducted by the Board itself. Passes upon the qualifications of all those desiring to teach in Iowa and issues various grades of certificates, entitling persons to teach |
| Board of Examiners for Mine Inspectors, etc. | Five members | Appointed by the Executive Council | 2 yrs. | \$5 per day ¹ | Examine and issue certificates to those qualified to act as mine inspectors, hoisting engineers and mine foremen |

¹ Entitled to necessary travelling expenses.

BOARDS, COMMISSIONS, BUREAUS, DEPARTMENTS, AND INSTITUTIONS—Continued.

| NAME | COMPOSITION | HOW CHOSEN | TERM OF OFFICE | COMPENSATION | POWERS AND DUTIES |
|----------------------------|--|--|---|---|--|
| Board of Health | Five members and a Secretary. Not more than three of the same political party and not more than two of the same school of medical practice | A civil and sanitary engineer and four physicians appointed by an appointing board consisting of the Governor, Secretary of State, and State Auditor | 5 yrs. | The Secretary receives \$3000 per year. The engineers \$2500 per year, and the other members each \$900 per year. | Has general supervision of interests of health and life of citizens of the State. Regulates quarantines. Examines and licenses undertakers. Makes rules and regulations for the inspection of petroleum products. Disposes of unclaimed bodies, etc. |
| Board of Law Examiners | Six members | Attorney General ex officio and five members appointed by the Supreme Court | 2 yrs. | Determined by Supreme Court. At present \$15 per day paid out of examination fees | Examine and pass upon the qualifications of persons desiring to practice law in Iowa |
| Board of Library Trustees | Ten members | The Governor, Secretary of State, Superintendent of Public Instruction and Judges of Supreme Court ex officio members | While holding the office which makes them members | No compensation | Elects a State Librarian for the State Library and Curator for the Historical Department of the State Library. Has charge of the affairs of the State Library, Historical Department, Hall of Archives, all located at Des Moines |
| Board of Medical Examiners | The physicians of the State Board of | By virtue of office. See column headed Composition | While on Board of Health | Members receive no extra compensation as examiners | To examine and license persons desiring to practice medicine or osteopathy |

| | | | | | |
|---|---------------|--|--------|--|---|
| Health. Its secretary is the Secretary of the State Board of Health | Four members | One physician of the Board of Health, and three optometrists recommended by the Iowa State Association of Optometrists and appointed by the Governor | 1 yr. | Each member except the secretary receives \$5 ¹ for each day actually spent in discharging his duties. Secretary receives only his expenses | Examine and license persons desiring to practice optometry, i. e., measuring the powers of vision and fitting glasses without the aid of drugs |
| Board of Optometry Examiners | | | | | |
| Board of Parole | Three members | Appointed by the Governor confirmed by Senate | 6 yrs. | \$10 per day and expenses | Must hold at least four sessions each year. May establish rules and regulations under which prisoners in the penitentiaries other than life prisoners may be paroled. Recommends prisoners for pardon to the Governor |
| Board of Voting Machine Commissioners. No board is acting at the present time, 1920 | Three members | Appointed by the Governor | 5 yrs. | Fees for examination and report of machines not to exceed \$1500 and reasonable expenses paid by parties applying for examination and report | To examine and report upon the capacity, accuracy, and efficiency of voting machines. Machines not approved by the Commission cannot be used at any election in Iowa |

¹ Entitled to necessary travelling expenses.

BOARDS, COMMISSIONS, BUREAUS, DEPARTMENTS, AND INSTITUTIONS—Continued.

| NAME | COMPOSITION | HOW CHOSEN | TERM OF OFFICE | COMPENSATION | POWERS AND DUTIES |
|-----------------------------|--|---------------------------|---|---|---|
| Bureau of Labor Statistics | One Commissioner | Appointed by the Governor | 2 yrs. | \$3000 per year | The collection of data relative to the conditions surrounding the employment of labor. Inspects factories and work-shops and enforces the laws relative to sanitation and safety of employees. Enforces child labor law |
| Commission of Animal Health | Seven members, two veterinarians, State veterinary surgeon, and four stock-raisers | Appointed by the Governor | 3 yrs. for veterinarians; two yrs. for stockraisers | \$100 per year for the veterinarians, except the State Veterinary, who serves without pay. The other four members receive \$100 per yr. and travelling expenses | Has power to make regulations to prevent or suppress contagious or infectious diseases among animals. The State Veterinary Surgeon and the two veterinarians on the commission constitute a board for examination of applicants to practice veterinary medicine, surgery, and dentistry in Iowa |
| Commissioners of Pharmacy | Three members | Appointed by the Governor | 3 yrs. | \$1500 per year | Conducts examinations of those applying for certificates as registered pharmacists, makes annual renewal of certificates, cancels registration of pharmacists upon conviction of violation of liquor laws. Appoints a secretary and treasurer |

| | | | | | |
|----------------------------|------------------|--|--|---|---|
| Geological Board | Five members | The Governor, Auditor, and Presidents of the State University, the Agricultural College, and the Iowa Acad. of Sciences ex officio | While holding offices named | Actual expenses incurred in attending to their duties | Appoints State Geologists and assistants recommended by him. The State Geologist directs the Iowa Geological Survey and reports on the natural resources of the State, including ores, coals, clays, building stones, and other useful materials |
| Library Commission | Seven members | The State Librarian, State Superintendent of Public Instruction and President of the University ex officio. Four appointed by the Governor | 5 yrs. | None ¹ | Elects a secretary and other assistants, aids any community desiring to establish and maintain a public library, maintains a travelling library, conducts a summer library school, and maintains a clearing-house for the exchange of periodicals |
| State Board of Agriculture | Nineteen members | The Governor, the Pres. of the Agricultural College, the State Food and Dairy Commissioner and the State Veterinarian ex officio, and in addition a President, Vice-President, and one director from each congressional district are elected at an agricultural convention provided for by law | President and Vice-President are elected for 1 yr. The district directors for 2 yrs. Secretary and Treasurer for 1 yr. | The elective members receive \$10 per day and necessary travelling expenses. Secretary receives \$3900 per year | The Board elects its own Secretary and Treasurer, who become members of the Board. The Board is charged with the duty of promoting the interests of agriculture, agricultural education, animal and other industries of the State. The Board is the custodian of the State Fair Grounds with full power to hold and manage the State Fair. The Board is in charge of the affairs of State Department of Agriculture |

¹ Entitled to necessary travelling expenses.

BOARDS, COMMISSIONS, BUREAUS, DEPARTMENTS, AND INSTITUTIONS—Continued.

| NAME | COMPOSITION | HOW CHOSEN | TERM OF OFFICE | COMPENSATION | POWERS AND DUTIES |
|--|--|--|---|--|---|
| State Highway Commission | Three members | Dean of Engineering of the Iowa State College ex officio and two members appointed by the Governor | Four years for the appointed members | \$10 per day for appointed members but not for over 100 days | To devise and adopt plans and systems of highway construction. To give information and to enforce the provisions of the road law |
| State Registrar of Vital Statistics | One member | The Secretary of the Board of Health ex officio | While Secretary of the Board of Health | No special pay outside of his salary as Secretary of the Board of Health | Promulgates and enforces all necessary rules and regulations necessary to the proper reporting of all deaths, births, marriages, and divorces |
| State Board of Public Printing and Binding | Five members. The Governor, the Sec'y of the State, the State Auditor, the State Treasurer, the Document Editor, who is secretary of the Board | All ex officio members, except the Secretary, who is appointed by the Governor | Ex officio members while in office. The Document Editor 4 years | Document Editor receives \$3000 per year | Makes contracts for printing and binding of all kinds for the State departments at the capital. Determines the number of copies printed, audits the bills, etc. Documents editor edits, revises, and prepares manuscripts of all publications for the State |
| State Board of Audit | Auditor of State, Attorney General and Secretary of Executive Council | All ex officio | While in office | No pay beyond their regular salaries | Audits all claims, except those for salaries, of various officers which are fixed by law and claims on account of the institutions under the Board of Control and |

| | | | | | |
|---------------------------------|---------------|---------------------------|--------|--|--|
| State Board of Account- ancy | Three members | Appointed by the Governor | 3 yrs. | \$10 per day and ex- penses, but can- not exceed the amount of fees re- ceived | the Board of Education. May make rules and regu- lations relative to the sub- mission of accounts for audit Examines persons desiring to practice in Iowa as cer- tified public accountants and issues certificates to those qualifying |
|---------------------------------|---------------|---------------------------|--------|--|--|

Temporary Boards and Commissions. — The purposes for which many State boards or commissions have been established have been temporary. Examples of such commissions are: the Code Commission, the Commission to Locate the Seat of Government, and the State Capitol Commission. When the General Assembly feels that it has not sufficient information upon which to act intelligently in the making of laws, it sometimes appoints commissions to make special reports; but it is in no way bound to act upon the reports submitted by such commissions. Thus, the elaborate report and recommendations to the Thirty-third General Assembly, in 1909, submitted by the Educational Commission were not acted upon. The Thirty-fourth General Assembly, in 1911, established two important commissions to report to the Thirty-fifth General Assembly in 1913; namely, the Employers' Liability Commission, and the Tax Commission.

Employers' Liability Commission. — This Commission was appointed to investigate and report upon the problems of industrial accidents in this and other States and to ascertain the most equitable and effectual method of providing compensation for losses suffered.

The Workmen's Compensation Law was enacted partly upon the recommendations of this Commission and the office of Iowa Industrial Commissioner was provided to carry out the provisions of the law.

Tax Commission. — In like manner a Tax Commission was created in 1911 "to examine into tax assessments, tax

levy and tax collection laws of the State of Iowa, and of other States, and use such means and make such investigations as it shall deem best to secure information, for the purpose of ascertaining whether the present laws of the State of Iowa regulating the assessment, levying, and collection of taxes may not be improved, and to report its findings together with such recommendation as it may deem desirable, to the Governor not later than October 1, 1912." The Commission reported, recommending important changes in our tax laws, but the General Assembly refused to act upon their recommendations.

State Aid to Private Institutions. — In addition to the various boards and commissions established by law, encouragement has been given to associations whose activities are of benefit to the State. Thus the State makes appropriations for the benefit of or prints the proceedings of such associations as the Iowa Academy of Sciences, the State Teachers' Association, the State Horticultural Society, and the Improved Stock Breeders' Association. Frequently charitable or educational institutions privately conducted apply for and receive State aid.

QUESTIONS ON THE TEXT.

1. What are the chief boards in Iowa?
2. How are the penal and charitable institutions of the State managed?
3. What advantage is it to the State to have its institutions managed by one board devoting all its time to the work rather than to have numerous boards devoting only part time to the work?
4. What are the duties of the State Board of Education?

5. What is the relation of the Finance Committee to the State Board of Education?
6. What are the duties of the Railroad Commissioners?
7. In what way does the Commerce Council make the work of the Railroad Commissioners more effective?
8. Why is it better to have boards and commissions appointed by the Governor rather than elected by the people?
9. Why is it a proper function of government to care for the defective and dependent classes?
10. What functions of government may be considered as *essential*, and what as *optional*?
11. What purposes do temporary boards serve?

ADDITIONAL READINGS

NOTE.—I. J. H. P. = *Iowa Journal of History and Politics*.

The Problems of Administration in Iowa, I. J. H. P., Vol. I, p. 467.

The Re-Organization of State Government in Iowa, Iowa Applied History Series, Vol. II, p. 3.

CHAPTER XIII.

THE JUDICIAL DEPARTMENT.

The Courts. — The interpretation of the law by a department of government which neither makes nor executes the law has been found to be an essential safeguard to the personal and property rights of the citizens. Experience has taught that the judicial system is most effective where the courts are arranged in a graded series from lower to higher so that the minor and less important cases may be settled in the lower courts, allowing the higher tribunals time to devote their energies to the settlement of the more important cases.

The Justice of the Peace. — At the bottom of the judicial scale is the Justice of the Peace Court, the judges of which are elected by the people in each township. In Iowa each township has two justices of the peace, but they are classed as County Officers. They must reside in the township in which they are elected. A justice of the peace may try cases coming within his jurisdiction anywhere in the County in which he resides, but not outside of it. He may try all civil cases in which the amount in controversy does not exceed \$100, or with the consent of both parties the amount may be as high as \$300. In criminal suits the justice of the peace may

try cases wherein the penalty does not exceed \$100 fine or thirty days in the county jail. The justice of the peace may also conduct preliminary hearings in criminal cases outside of his jurisdiction, and he may bind offenders over to the grand jury, fixing such bail as the law authorizes. An appeal may be taken from the decision of the justice of the peace to the District Court, except in those civil cases where the amount involved is less than twenty-five dollars.

In addition to his judicial duties a justice of the peace may perform the marriage ceremony; he may act as coroner; and he may acknowledge papers and administer oaths. His term of office is two years. In most cases he receives no fixed salary, but is entitled to all fees up to a certain amount fixed by law.

The District Court. — Above the Justice of the Peace Court is the District Court, which has jurisdiction over nearly all of the more serious offences and in the more important civil cases. It may be said to be a court of general jurisdiction; and all actions civil, criminal, equitable, or probate may be begun there. At the present time (1920) the State is divided into twenty-one judicial districts, and from two to five judges are allotted by law to each district in accordance with population and the volume of business. There are in all sixty-four district court judges, each elected by the people of his district and holding office for four years at a compensation of \$4000 per year. In each County at least four sittings of the District Court must be held each year.

Superior Courts. — The name Superior Court is somewhat misleading since it is not a court above the District Court, but is in fact inferior to it. The General Assembly has provided that any city of four thousand inhabitants may by a vote of the people establish a Superior Court. Seven such courts have to date (1920) been established in Iowa.¹ The Judge's term of office is the same as that of District Judges (namely, four years); but his compensation is less, being but \$2000 per year except in cities of 40,000 population and over, in which he receives \$3000 per year. Half of the salary of Superior Court Judges is paid out of the city treasury and the other half out of the County treasury.

A Superior Court when established takes the place of a police or mayor's court and has exclusive jurisdiction in all cases arising under the city ordinances. It has concurrent jurisdiction with the District Court in all civil matters, except in probate matters and actions for divorce, alimony, and separate maintenance. It also has concurrent jurisdiction with justices of the peace. Writs of error and appeals may be taken to the Superior Courts from the Justice of the Peace Courts in the township in which the Superior Court is held, and, by the consent of both parties, from any other township in the County. That the Superior Court is inferior to the District Court is shown by the fact that in criminal cases an appeal may be taken to the District Court in the same manner as provided for appeals from Justice of the Peace Courts in criminal cases. The

¹ Superior Courts have been established in Cedar Rapids, Council Bluffs, Grinnell, Keokuk, Oelwein, Perry, and Shenandoah.

organization of a Superior Court is a distinct advantage to a city of considerable size which is located at a distance from the County seat.

In cities of five thousand population or over the people may vote to establish a Municipal Court, and when so established the police court, mayor's court, Justice of the Peace Court, and Superior Court in and for the territory within the Municipal Court district are abolished.

The Supreme Court. — At the head of the judicial system in Iowa stands the Supreme Court. It consists of seven justices, all elected by the people. Their term of office is six years, two justices being elected biennially at the general election. The justices of the Supreme Court of Iowa each receive a compensation of \$6000 annually. Four justices constitute a quorum for the transaction of business. When one Supreme Court justice was elected annually, the one whose term expired first was Chief Justice in his last year; but since the biennial election amendment was adopted, the terms of two or sometimes three of the justices expire at the same time. In such cases the oldest serves as Chief Justice in the fifth year of his term, and the next oldest serves as Chief Justice in the last year of his term.

The Supreme Court exercises a supervisory control over all inferior judicial tribunals throughout the State. Its chief function is the correction of error at law. Only in rare instances are cases started in first instance or begun in the Supreme Court; and cases appealed to it are not retried, except equity cases, but are simply reviewed to

determine whether the trial judge's interpretation of the law was correct. In most cases the decisions of the Supreme Court of Iowa are final. When the Supreme Court is equally divided on a given case the judgment of the lower court is always sustained. The Supreme Court of Iowa holds three regular terms of court each year beginning in January, May, and September. The Court may adjourn from time to time, but not for more than thirty days except during July and August.

The Supreme Court may be divided into two sections, the Chief Justice presiding in open court with each section, the purpose being to expedite the work of the court. The court makes its own rules for the submission of cases to the separate sections. The Chief Justice may direct the whole court to sit upon a case.

The Clerk of the Supreme Court and the Reporter are now appointed by the court itself.

The Public Prosecutors. — An account of the judicial system of Iowa would be incomplete without a consideration of the Attorney-General and the County Attorney. Both of these officials are constitutional officers, the County Attorney being the only County officer provided for in the Constitution. Both represent the State. As a general rule all offenders against the State laws are tried in the County in which the offence was committed.

County Attorney. — Each County elects a County Attorney who represents the State in all criminal prosecution in his County. He also represents the County when its

interests are at stake, and he must appear on behalf of the township trustees whenever they are made parties to litigation in Counties of less than 25,000 inhabitants, unless the interest of the County and the trustees are adverse. He is likewise legal adviser to the Board of Supervisors and County officers.

Attorney-General. — The Attorney-General is a State officer, elected in the same manner as other State officers and for the same term of office. Whenever a criminal case is carried to the Supreme Court, the Attorney-General takes charge of the case instead of the County Attorney. He also represents the State whenever it is a party to a suit. This may be in a District Court as well as in the Supreme Court, for we have already noted that he may bring suit in the District Court for the removal of certain County or city officers. He is also the legal adviser of the State officers and of the General Assembly, whose members may also ask his advice upon matters of law.

The Duty of Public Prosecutor. — Thus it appears that the public prosecutor is an important adjunct to the judicial department, since the courts do not begin suits against offenders, but only try cases which have been properly brought before them. On the other hand, the public prosecutor is also closely associated with the executive department, aiding the executive in the enforcement of law. If the public prosecutor fails or neglects to do his duty, many offenders against the laws of the State will go unpunished.

Prior to 1911, the prosecuting attorney did not have

complete control in starting criminal proceedings against all criminals, for the grand jury had to take the preliminary steps in all indictable offences. He could not prevent or compel action on the part of the grand jury, but he frequently determined what cases were to come before the grand jury. An amendment to the Constitution of 1884 authorized the General Assembly to provide for holding persons to answer for criminal offences without the intervention of a grand jury, but no such provision was made until the session of the General Assembly in 1911. This act provides that in all criminal offences in which the punishment exceeds a fine of \$100 or exceeds imprisonment for 30 days, the accused may be prosecuted to final judgment after being bound over to the grand jury on preliminary examination, either on indictment by the grand jury or upon information of the County attorney under oath.

QUESTIONS ON THE TEXT.

1. What is the function of the Courts?
2. Why is a graded series of Courts best?
3. Name the different Courts in our judicial system.
4. Give the powers of a Justice of the Peace.
5. How many judicial districts are there in the State?
6. In what Court are most of the serious offences tried?
7. How does a Superior Court differ from a District Court?
8. Describe the organization of the Supreme Court of Iowa.
9. What is the relation of the public prosecutor to the Courts?

ADDITIONAL READINGS.

NOTE.—I. J. H. P. = *Iowa Journal of History and Politics*.

Judicial Districting in Iowa, I. J. H. P., Vol. V, p. 455.

Interpretation and Construction of the Statutes of Iowa, Iowa Applied History Series, Vol. III, p. 431.

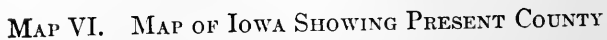
CHAPTER XIV.

THE COUNTY AND ITS GOVERNMENT.

The Status of Local Governments. — Turning from a consideration of the State government, the framework of which is provided for in the Constitution, we now enter upon a brief consideration of the government of those political subdivisions of the State with which most people are more or less familiar.

With the exception of limitations placed upon the General Assembly in the Constitution relative to the changing of the boundaries of counties and the location of county seats and the limitations placed upon counties in contracting debts, the General Assembly is given free hand in enacting legislation relative to the organization, powers, duties, and officers of the counties, townships, cities, and towns of Iowa as long as such legislation is uniform throughout the State.

Area of Counties. — The legislature has divided the State into ninety-nine counties, fifty-two of which are rectangular in form and contain from twelve to sixteen Congressional townships, with an area of 432 or 576 square miles in each. (See map VI.) The remaining counties have somewhat irregular boundaries and vary in area. It will be remembered, however, that the General Assembly



MAP VI. MAP OF IOWA SHOWING PRESENT COUNTY

is forbidden to organize any County with less than 432 square miles.

County Officers. — Each County is a body corporate for civil and political purposes, and has a County seat where the County court-house is located. Here the County officers are accommodated and the District Court is held. The County officers consist of a Board of Supervisors, a County Attorney, an Auditor, a Treasurer, a Recorder, a Clerk, a Sheriff, a Coroner, and a Superintendent of Schools. The duties of these officers will be briefly considered.

The Board of Supervisors. — The Board of Supervisors in sixty-one counties consists of three members; in thirty-five counties it consists of five members; and in three counties it consists of seven members. The number of Supervisors may be changed in any County by a vote of the people of that County. The members of the Board are chosen for a term of three years and their terms expire in rotation. The members of the Board must be qualified electors in the County in which they are elected, and no two of them may come from the same township. The Board itself may, however, divide the County into supervisor districts, or provide for the election of its members at large. If the County is districted, then each district is entitled to one Supervisor. The Board cannot redistrict the County more than once in two years. The Board has general supervision and management of the affairs of the County. The regular meetings of the Board as provided for by law are held on the second secular day in January, the first Monday in April and June, the second Monday

in September, and the first Monday in November in odd-numbered years, and the second Monday in November in even-numbered years, after the election. A majority of the Board constitutes a quorum and may request special meetings. The Board chooses its own chairman who presides over the meetings and votes as any other member.

Powers and Duties of the Supervisors. — In the County there is not so clear a separation of governmental powers as prevails in the State government. The Board of Supervisors exercises both legislative and administrative functions. It makes regulations and votes appropriations; and it sees that the regulations are obeyed and that the money is properly spent. The members are in fact Supervisors of the County, since they not only look after the business management of the County but also have general supervision over all other County officers.

All the powers and duties of the Board of Supervisors are determined by the State and may be expanded or contracted as the General Assembly deems wise. In the *Code Supplement* of 1907, twenty-three specific powers of the Board of Supervisors are enumerated, and numerous others have been added by the General Assembly since then. The chief of these are: to make orders relative to the property of the County; to examine and settle all accounts of the receipts and expenditures of the County; to settle all just claims against the County; to provide the necessary buildings for the use of the County and of the courts; to establish, organize, and name townships; to require County officers to make reports under oath and to give

bonds for the faithful performance of duty; and in case of failure on the part of a County officer to make the report or give the bond required, the Board may by a majority vote remove such County officer and fill the vacancy thus created until the next election.

The Board controls the County school fund, lays out or discontinues public highways in the County, and builds all bridges in the County. It may offer bounties, not to exceed five dollars, on the scalps of wild animals killed within the County in addition to those provided by State law. It may buy the necessary real estate to provide a farm and home to support the County poor; fix the compensation of all services of County and township officers not otherwise provided for by law; buy real estate for County fairs; locate polling places outside of cities; establish drainage and permanent road improvement districts; and give decent burial to honorably discharged but indigent soldiers and sailors of the United States and their wives and widows, and appoint a County Engineer. Furthermore the Board has power to make all rules and regulations, not inconsistent with law, as may be deemed necessary for the government of the County, the transaction of County business, and the preservation of order.

The Duties of the County Attorney. — The duties of the County Attorney have already been considered in the chapter on the State Judiciary. (See above, Chapter XIII.)

The County Auditor. — This officer is Secretary to the Board of Supervisors and has general custody of the County

court-house, subject to the direction of the Board of Supervisors. He has a great variety of duties, most of them being connected with his position as Secretary to the Board of Supervisors. The chief of these may be briefly enumerated. He keeps the proceedings of the Board of Supervisors and sees that they are published in some newspaper in the County. He furnishes poll books for elections and makes up the official ballot for the County, which ballot bears a facsimile of his signature. Election returns are made to him. He issues certificates of election to County officers and holds their bonds. The resignations of township and County officers are made to him. All transfers of real estate by deed in the County are recorded in his office. He draws all warrants on the County treasury, and is indeed a very busy and important officer.

The Auditor's term of office is two years. His compensation is determined by the population of the County, since from the very nature of his duties the larger the population the more service he has to perform. In 1919 the Legislature fixed the salary of County Auditors at from \$1700 to \$3400 according to population, but provided that the salaries thus established should not apply after June 30, 1921 — which means that the next Legislature will have to continue the present salary scale if it is to be retained.

The County Treasurer. — This County official receives all money payable to the County, which consists mostly of the taxes paid in the County. He pays out money only on warrants from the County Auditor; and thus each

officer is a check upon the other. These officers are usually under heavy bonds to insure a faithful performance of duties.

The Treasurer must keep an account of receipts and disbursements in such shape that they may be inspected by the Board of Supervisors at any time. He is made responsible for the actual registration of motor vehicles. He issues the number-plates and collects the license fees. The Treasurer's term of office is two years, and his compensation is now the same as that of the Auditor. In Counties having a population of 40,000 or over and containing one or more cities of the first class, the Board of Supervisors may give an additional compensation not to exceed \$50 a year for each 5000 population of such cities.

The County Recorder.—As his title indicates, the County Recorder is an officer charged with the duty of recording instruments in writing which may be delivered to him for record. The chief instruments of record in his office are deeds, mortgages, articles of incorporation, and the like. Every change in the title of land must first be entered in the records of the County Auditor's office before it is entered in the office of the Recorder. In counties of less than 10,000 inhabitants the same person may hold the office of County Recorder and Treasurer. The office of County Recorder is one of the two County offices in Iowa to which women were eligible prior to the adoption of the equal suffrage amendment. The compensation is determined by population. The amount fixed in the present law ranges from \$1600 to \$3100.

The County Clerk or the Clerk of the District Court. — The County Clerk is an officer of the District Court, and most of the duties performed by him are connected with the work of that court. He must attend the sessions of the court either in person or by deputy. He records the proceedings of the court; and in the performance of most of his duties he acts under the direction of the District Judge. When the court is not in session he is authorized to appoint executors, administrators, and guardians, until the next session of the court. A good, systematic Clerk is of great assistance to the District Judge in the disposition of business.

In addition to his duties connected with the court, the Clerk issues marriage licenses, makes a record of the same, and must see to it that the parties applying therefor are eligible to marriage under the Iowa laws. He also keeps a register of all births and deaths within the County. The County Clerk is elected by the people for a term of two years and his compensation ranges from \$1700 to \$3900, according to the population of the County. In a couple of Counties the District Court is held in two places. In such cases the Clerk may be given \$400 additional pay.

The County Sheriff. — The office of Sheriff is one of the oldest in the history of Anglo-Saxon government. In the earlier history of England he was probably the most important and powerful of the agents of local government, and he exercised judicial as well as executive and administrative powers. The Sheriff has, however, lost most of his ancient prerogatives, and to-day he is considered chiefly

as a peace officer in the County. As such he may appoint deputies to aid him, and in extreme cases may call out the *posse comitatus* or "the power of the County," that is, all able-bodied persons.

The Sheriff has charge of the County jail and the custody of all persons committed to it. He is required to attend the District Court; and while it is in session he may appoint the necessary number of bailiffs, who are regarded as deputy sheriffs, and for whose acts the Sheriff himself is responsible. He may make arrests in his own County. He executes the judgments of the District Court; and disobedience to its commands is contempt of court and may be punished accordingly. He executes and returns all writs and other legal processes of the District Court.

The office of Sheriff, on account of the fees and salary paid, is one of the most highly prized in the County. The compensation ranges from \$1700 to \$2800 per year, according to the population of the County; and in addition the Sheriff is authorized to collect a large number of fees for various services.

The County Coroner. — The once powerful official of the Crown, established to limit the power of the Sheriff, has declined to a position of such insignificance that frequently there is no candidate for the office at the general election, and the Board of Supervisors is obliged to fill the place by appointment. Should the office of Sheriff become vacant, the Coroner is authorized to perform all the duties of Sheriff. Practically the only duty remaining to the office of Coroner as such is the holding of inquests over bodies of

persons, the cause of whose death is uncertain or where suspicion or evidence of foul play exists.

In Iowa any justice of the peace may act as Coroner. The Coroner's only source of compensation is fees fixed by law for the performance of his duties. Frequently we find undertakers seeking the position of Coroner, not for the fees of the office, but for the opportunity of burying persons who come to their death by accident or by foul play.

The County Superintendent. — The general supervision of the public schools of the County is confided to the County Superintendent, and he is charged with the duty of seeing that the school laws are enforced. He is chosen by the Presidents of the school boards of several school corporations of the County. He conducts examinations to test the qualifications of those desiring to teach. The questions, however, for such examinations are furnished by the State Board of Educational Examiners, and the papers are read and graded under the supervision of the State Superintendent of Public Instruction.

The County Superintendent has power to hear and decide all appeals from the decisions of the district board of directors, but the aggrieved party may still appeal to the State Superintendent. The County Superintendent must make an annual report to the State Superintendent describing the progress of public education in his County and send in such school statistics as are required by law.

The office of County Superintendent may be held by women as well as by men, provided they possess the qualifications of office, that is, hold a first-grade certificate, a

State certificate, or a life diploma. The County Superintendent's term of office is three years, and the compensation is from \$1600 to \$2500 annually according to the population of the County. A few Counties pay their Superintendents more than \$2500, which they are permitted to do under special acts.

The County Surveyor. — This office of County Surveyor was abolished by the General Assembly of 1911. The Board of Supervisors are now authorized to appoint a County Engineer who, under their direction, has general supervision of the County road system.

QUESTIONS ON THE TEXT.

1. What authority has the General Assembly over the local governments?
2. Name the County officers.
3. Give five powers of the Board of Supervisors.
4. Give the duties of the County Auditor.
5. How is the public safeguarded by having the Auditor draw the warrants which the Treasurer pays?
6. Name two County offices which may be held by women.
7. What are the duties of the Recorder?
8. What duties has the Clerk of Court outside of his court work?
9. Why is the office of Sheriff both important and lucrative?
10. What is the only function of a Coroner at present?
11. What are the qualifications of a County Superintendent?

ADDITIONAL READINGS.

NOTE. — I. J. H. P. = *Iowa Journal of History and Politics*.

History of the Establishment of Counties in Iowa, I. J. H. P., Vol. VI, p. 375.
Boundary History of the Counties of Iowa, I. J. H. P., Vol. VII, p. 3.
A Critical Study of County Boundaries in Iowa, I. J. H. P., Vol. VII, p. 402.
Many Counties in Place of Two, Aurner's Iowa Stories, Bk. II, p. 19.
How Counties were Managed, Aurner's Iowa Stories, Bk. II, p. 30.

CHAPTER XV.

THE CIVIL TOWNSHIP AND ITS GOVERNMENT.

The Congressional Township. — When Iowa was first legally open to settlement, the pioneers found the land laid off by the government survey into areas six miles square, known as Congressional townships. The Congressional townships served but one purpose, as far as the Federal government was concerned, namely, a means of locating land. The State, however, has used the Congressional townships wherever possible as the component parts of the organized counties; and so the Board of Supervisors, exercising its power to divide the County into townships “as convenience may require,” has found it convenient in a large number of counties to adopt the lines of the Congressional township as the boundaries of the civil township.

Organization of Civil Townships. — The civil township is an area of local government, a division of the County for governmental purposes, and is not a body corporate as is the county, city, or town. Being a local government, the convenience of the people is taken into account. Thus, where a river runs through a Congressional township it would be inconvenient to follow the Congressional township lines and compel half the people to cross the river to vote or to transact other township business. Accordingly

the Supervisors have been authorized to organize the civil townships within the County as convenience may require.

Powers of the Iowa Township. — In Iowa the civil township does not have the powers of the New England town, nor does the County have the authority of the County in the South. Here the powers of local government have been apportioned between the township and the County; and this arrangement is sometimes called the County-Township System. In the division of power the township has suffered most. The chief functions of the civil township in Iowa are the holding of elections, the repairing of roads, the listing of property for taxation, the equalizing of taxes, the giving of relief to the poor, and the transacting of other local business pertaining to the township.

The Township Officers. — The township officers consist of three trustees, a clerk, two justices of the peace, two constables, and an assessor. All are elected by the people and serve for two years. A township office is usually looked upon as a burden and an annoyance by the farmer. On account of the difficulty of getting men to qualify and serve as township officers after election, the General Assembly has imposed a penalty of \$5 upon any one who, having been elected to a township office, refuses to qualify and serve; but no one is compelled to serve as a township officer two terms in succession.

Many justices of the peace report annually that no cases have been tried before them; and many township Constables never make any arrests or perform any official acts. The Assessor is usually sure of two or three months'

work at \$2 per day for listing all taxable property in his township. When the Township Assessor has estimated the value of all property listed by him for taxation, the Township Trustees revise and equalize the assessment. Some curious facts regarding assessments have recently been brought to light. Cattle were assessed at \$4.66 a head in Wright County, while in Des Moines County they were assessed at \$10.45 a head. Swine were assessed at \$4 a head in Webster County, and at only fifty-four cents a head in Sioux County.

QUESTIONS ON THE TEXT.

1. What is the purpose of the Congressional township?
2. What is the purpose of the civil township?
3. What determines the area of a civil township?
4. What are the chief functions of the civil township?
5. Name the township officers.
6. Why is one subject to a fine for refusing to qualify when elected to a township office?
7. Is there something wrong with township assessment of property when cattle and hogs are assessed at such widely different values in different counties?

ADDITIONAL READINGS.

The History of Township Government in Iowa, by C. R. Aurner.
The History of a Piece of Land, Aurner's Iowa Stories, Bk. II, p. 41.

CHAPTER XVI.

THE GOVERNMENT OF CITIES AND TOWNS.

The Need of City Government. — Township government works well enough in a scattered, rural community; but where a large number of people are congregated together within a comparatively small area, a different and more efficient government is needed. As the number of persons residing in a given area increases, the greater must be the powers of the government of such a locality. Thus, a township government needs no power to install water, light, sewerage, and other public utility systems which become an absolute necessity in the interests of public health and public safety in a more thickly settled community.

The Source of Municipal Power. — All of the powers, duties, and functions of municipalities are derived from and are dependent upon acts of the General Assembly. This is, moreover, the general system which prevails throughout the United States. Legislatures grant or take away such powers and privileges as public policy or mere caprice may dictate; and the courts have generally followed the rule that what has not been especially granted to cities or towns is denied. This system has been unfor-

tunate from the standpoint of good city government, for cities are constantly appealing to legislative assemblies for special powers to meet local conditions. Where the legislature, as in Iowa, is forbidden to enact special legislation for cities or towns, they have resorted to the expedient of classification. Sometimes the classes are so made that only one city can possibly be included within the class.

The European System. — The adoption of the general European system of placing a few fundamental restrictions upon cities and towns in the interests of the State and then granting all other powers not especially denied would probably have a wholesome effect upon our municipal governments.

Incorporation of Municipalities. — Cities and towns acquire the privileges of local self-government through a legal process known as incorporation, which is accomplished as follows: Whenever any locality or community not already within the limits of any city or town desires to become incorporated, it must present a petition to the District Court, signed by at least twenty-five voters resident within the limits of the proposed corporation. The Judge of the District Court is empowered to change or limit the territory proposed to be incorporated; and he appoints five commissioners who give notice of, and conduct an election within, the limits of the proposed town to determine whether a majority of the qualified electors are in favor of incorporation. If the majority of the qualified voters favor incorporation, then the District Court

directs the same commissioners to hold another election for the choice of a Council, a Mayor, a Clerk, and a Treasurer.

The Classification of Municipalities. — The organization of a village or community as described above is known as a town and remains classified as such until the population increases to 2000 inhabitants, when it passes to the next higher group of municipal governments and becomes a city of the second class. When the population reaches 15,000, cities of the second class become cities of the first class.

Powers of Municipalities. — Each of these three classes is vested with power to enact ordinances to preserve and promote the safety, health, prosperity, order, comfort, convenience, and improve the morals of the community and its inhabitants. Some of the things regulated by cities and towns may be enumerated. They provide for the prevention of nuisances, the regulation of slaughter-houses, the burial of the dead, and filling or draining of lots. They license, regulate, and tax hotels, restaurants, eating houses, billiard rooms, theatres, circuses, shows, auctioneers, pedlers, plumbers, itinerant doctors, bill posters, junk dealers, pawnbrokers, etc. They also provide for the paving, cleaning, and lighting of streets and alleys; for the furnishing of water, light, and sewerage, and for the maintenance of libraries, parks, and playgrounds. And they may enforce a great variety of orders and regulations to promote public health and safety. They may enforce their ordinances and regulations by penalties not exceeding \$100 fine and thirty days in jail.

Composition of the Council. — The legislative department of a city or town is known as the Council. In towns it consists of five members elected at large; and in cities of both first and second class it consists of one member from each ward, and two members elected at large. The members of the Council, as well as other municipal officers elected by the people, are now chosen biennially for a term of two years. The election for such officers is not held in November at the general State election, but is held on the last Monday in March. This insures the consideration of local affairs and local issues apart from State and national politics.

Compensation of Councilmen. — In cities of the first class the compensation of councilmen may not exceed \$250 per year, while in cities of the second class and in towns it may not exceed \$50.

The Mayor. — The chief executive officer of the city or town is the Mayor. It is his duty to see that all regulations and ordinances are enforced. He is charged with the supervision of all officers of the corporation, and it is his duty to examine into complaints made against them and to cause all violation or neglect of duty to be corrected. He is the presiding officer of the Council, with the right to vote only in case of a tie. He reports to the Council the condition of the city, and makes such recommendations as he deems advisable.

The Mayor is a conservator of the peace, and has all of the powers of a Sheriff in the suppression of disorders. He may arrest persons committing offences in his presence,

and may issue warrants for the arrest of offenders. Unless a police, superior, or municipal court has been established within the city, the Mayor holds police court, in which he not only tries offenders against the city ordinances, but has the same jurisdiction as a justice of the peace.

Appointing Power of the Mayor. — The Mayor is directed by law to appoint a Health Physician, a Street Commissioner, a Marshal, one or more Deputy Marshals if necessary, and such number of policemen as the Council by ordinance shall direct. Cities and towns may also provide for the appointment by the Mayor of such additional officers as may be necessary, such as Superintendent of Markets, Harbor Master, and Port Wardens and the like.

The Mayor's Veto. — The Mayor is given a veto on the acts of the Council; but the Council may pass acts over his veto by a two-thirds vote.

Compensation of Mayor. — The compensation of Mayors of cities or towns may be a sum fixed by the Council, or it may consist of fees derived from the police court, or it may consist of both.

Other Municipal Officers. — The officers elected by the people in towns and cities of the second class are the Councilmen, the Mayor, the Treasurer, and the Assessor. In cities of the first class the elected officers are a Mayor, Solicitor, Treasurer, Auditor, City Engineer, Assessor, and

a Police Judge, if a Superior or Municipal Court has not been established. The Council in all cities and towns appoints the City Clerk; in cities of the second class they also appoint the City Attorney and the City Engineer.

Other offices may be established at the option of cities or towns if permitted by law. Thus any city or town may provide for the creation of Park Commissioners; cities of 4000 may establish a Superior Court; and cities of 2000 may establish a commission form of government which provides for an entirely different set of officers.

The Three Classes of Municipalities. — It should be kept in mind that the chief differences between the three classes of municipalities — the cities of the first and second class and towns — is the extent to which taxes may be levied to carry out the special functions of local government.

The Failure of Municipal Government. — Municipal government in the United States has long been the object of severe criticism. Corruption, inefficiency, and extravagance seem to have flourished in city government as in no other place. The government of our cities — especially our large cities — is often at best unsatisfactory.

We have already noted the complete control of the Legislature over cities — a control which is too frequently exercised for purely partisan reasons. To remedy this unfortunate state of affairs and to center responsibility in municipal matters numerous plans of city government have been devised and proposed. Some have advocated the

appointment of Mayors and other administrative officers by the Governor. Others have argued for a system of home rule, wherein the city is permitted to frame its own charter.

The Des Moines or Commission Plan of City Government. — One of the newer types of municipal government is the so-called "commission plan" of city government. This is a scheme of city government which attracted considerable attention because of what it accomplished for Galveston, Texas. The plan was carefully studied and heartily indorsed by certain citizens of Des Moines, Iowa, who believed that the welfare of Des Moines would be materially promoted by the adoption of a similar plan of government. They persuaded the Thirty-second General Assembly to pass an act authorizing cities of 25,000 or over to organize under the commission plan of government; since then the benefits of the act have been extended to any city of over 2000 population. There are at present (1920) nine cities organized under the commission plan, namely: Burlington, Cedar Rapids, Des Moines, Fort Dodge, Keokuk, Marshalltown, Mason City, Ottumwa, and Sioux City.

Outline of the Plan. — In brief the plan is as follows: a non-partisan primary election is held for the selection of candidates for the positions of Mayor and Councilmen or Commissioners. Any qualified voter may become a candidate, all names appearing on the same ballot without any designation of party affiliation. Of all the candidates for Mayor, the voter is entitled to vote for one only; and

from among the candidates for Councilmen the voter may in cities of 25,000 or over select four, in cities of 2000 and under 25,000 two. When all votes are counted, the two candidates for the position of Mayor who have received the highest number of votes become the candidates for that office at the ensuing city election. In cities of over 25,000 the eight candidates for the Council receiving the highest number of votes, become the candidates for the Council. At the general municipal election the people choose one of the two candidates for Mayor, and four of the eight or two of the four, as the case may be, candidates for the Council.

Powers of the Commission. — These five officers (or three in the smaller cities) constitute the Commission and are vested with all the legislative, executive, and judicial powers formerly vested in other agencies of the city government. The Mayor is designated as Superintendent of Public Affairs; and the positions of Superintendent of Accounts and Finance, Superintendent of Public Safety, Superintendent of Streets and Public Improvements, and Superintendent of Parks and Public Property are distributed among the four members of the Council. In cities under 25,000 each member of the Council superintends two departments.

Responsibility and Recall. — The Commission elects all of the city officers, who thus become directly responsible to the Commission. Each Commissioner takes charge of his department and is held personally responsible for the con-

duct thereof. Should any Commissioner be corrupt or negligent in the performance of his duties, he may be removed from office at any time by a process known as the Recall, which is accomplished as follows: when twenty-five per cent of the municipal voters properly sign a petition demanding the election of a successor to the person sought to be removed and file it with the city clerk, an election is ordered in which the person sought to be removed may be a candidate to succeed himself. The one receiving the highest number of votes at such election is declared elected.

Popular Legislation. — As a further safeguard to public interest the initiative and referendum were added to the Des Moines Plan of city government. By the initiative and the referendum the people become the active source of power in the city, and the Council or Commission can neither force undesirable legislation upon them, nor refuse to enact that which the people want.

Compensation and Term of Office. — The compensation of the Commissioners is thought to be sufficient to attract good men. The pay of both the Mayor and Council is based upon population and may go as high as \$3500 for Mayor and \$3000 for Councilmen. The Mayor, Councilmen, and other officers under the Des Moines Plan, except those under the civil service, hold office for two years.

Advantages of the Plan. — The chief advantages of the Des Moines Plan may be said to be (1) the adoption of

the short ballot which concentrates the minds of the voters on a few men whose fitness for office is the only consideration; (2) a few persons spending all of their time in the interests of the city's business will accomplish better results than a large number of persons each spending but a small portion of his time in the city's interest; and (3) by concentrating power and responsibility in the hands of a few who are held strictly accountable for the conduct of the city's affairs the ends of good government are better and more easily attained than by dividing and scattering responsibility among a large number responsible to no one.

The City Manager Plan. — This is the most recent and apparently the most popular municipal reform. In 1915 the General Assembly of Iowa permitted the cities of Iowa to adopt this plan. In fact, two different City Manager Acts were passed. The first provides that cities and towns, except those under commission form of government and those of over 25,000 inhabitants, may by ordinance create the office of City Manager and fix his duties, powers, and compensation. The Manager is appointed by a majority vote of the Council and holds his office at their pleasure. When appointed the Manager performs the duties formerly incumbent upon the Street Commissioner, Manager of Public Utilities, Cemetery Sexton, City Clerk, and Superintendent of Markets. He also superintends and inspects all improvements and work upon the streets, alleys, sewers, and public grounds of the city or town, and performs such other duties as the Council may impose upon him. This type of City Manager Plan is supposed to be

especially adapted to the smaller communities. Six or eight cities and towns have adopted this plan.

The other type of City Manager Plan is patterned more closely after the Dayton (Ohio) Plan. In this case it requires a vote of the people to adopt the plan. If adopted in cities of 25,000 or more inhabitants, five Councilmen are elected, and in cities and towns of less than 25,000 inhabitants three Councilmen are elected; the terms of office are so arranged that all Councilmen will not go out of office at the same time. The Council when organized selects one of its own members as chairman, who is designated as Mayor, and is recognized as the official head of the city or town, although he is limited in his activities. The members of the Council, who serve without compensation, are required to meet at least once a month, and their meetings are open to the public. This Council appoints a City Manager who must be a competent person and "who shall be the administrative head of the municipal government of the city or town in which he is appointed."

The Manager is appointed without reference to his politics or residence. He appoints and controls all of the other city employees, subject to civil-service law. This plan overcomes the chief defects which have shown themselves in the workings of the Commission plan.

Webster City and Dubuque are the only two cities that have adopted this plan so far.

QUESTIONS ON THE TEXT.

1. Why is the township government unsuited to a thickly populated community?

2. From what course do cities and towns derive their power to make and enforce ordinances?
3. How is a town incorporated?
4. How are cities and towns classified?
5. Name five things which may be regulated by cities or towns.
6. How many members are there in the Council of cities and towns? How are they elected? Give term of office and compensation.
7. Compare the position of the Mayor of a city with that of the Governor of the State.
8. In what respect does the Mayor exercise judicial power?
9. Name other city officers elected by the people.
10. Describe the organization of a city government under the Commission plan.
11. What are the advantages of the Commission plan of city government?
12. Wherein is the city Manager plan superior to the Commission plan of city government?

ADDITIONAL READINGS.

NOTE. — I. J. H. P. = *Iowa Journal of History and Politics*.

Home Rule in Iowa, Iowa Applied History Series, Vol. II, p. 89.

Special Municipal Charters in Iowa, 1836-1858, I. J. H. P., Vol. XVIII, p. 163.

Commission Government in Iowa, by B. F. Shambaugh.

CHAPTER XVII.

AMENDMENTS TO THE CONSTITUTION.

The Power to change Laws. — In the preceding pages the framework of the government of Iowa has been outlined. In the conclusion of this subject it is proper to ask how may changes be accomplished in this organization of the State where the General Assembly is not authorized to act? We have already noted that the General Assembly has complete power, almost without limitations, over the government of towns, cities, townships, and counties.

The Power to change the Constitution. — The organization of the State government has remained much the same since the Constitution of Iowa was adopted in 1857. No constitution, however perfect at the time of its adoption, however, can provide for all that the safety and welfare of the State may require in the future. No legislative body can pass an unalterable law; nor can a constitutional convention direct that a certain provision of the fundamental law shall never be changed. Even if the people approve of such a provision, the same power — the people — may alter or abolish it. Some of the first State constitutions contained no amending clause. And it was believed on the one hand that such constitutions could not be amended, while on the other it was declared that

the assertion in the Bill of Rights and in the Declaration of Independence that the people have a right to alter or abolish the form of government in the interest of public safety and happiness justified amendment. But unless the changes are accomplished in an orderly and legal way, there result revolution and anarchy.

Methods of Amending Constitutions. — In general two methods have been followed in the United States in amending constitutions: (1) by the agency of a constituent assembly or constitutional convention, or (2) by the agency of the legislature. In both cases the amendments have as a rule been submitted to a direct vote of the people for ratification. Amendment by convention is an expensive and difficult process, and is seldom employed except where a general revision of the Constitution is found necessary.

Amending Clause in Constitution of 1846. — The Constitution of 1846 contained but a brief section providing for future amendments by a convention. The Whigs who had opposed the adoption of the Constitution of 1846 claimed that the Democrats had placed certain partisan dogmas in the Constitution and then had purposely made the process of amendment difficult in order that they could not be repealed.

Methods of Amending the Present Constitution. — When the Constitution of 1857 was drafted, most liberal provision was made to facilitate future changes in it. Three distinct methods of amending the Constitution are provided for; namely, amendments proposed by the legislature; a con-

vention called by a vote of the people every ten years to revise and amend the Constitution; and a convention called by vote of the people at the suggestion of the General Assembly to propose amendments. In each case the proposed amendment or amendments must be submitted to and ratified by the people at an election before they become a part of our fundamental law.

The Legislative Method. — According to the legislative method amendments may be proposed in either branch of the General Assembly, and if agreed to by a majority of each, the proposed amendment is entered on the journals and must be published for three months previous to the next election of the members of the General Assembly. If the next General Assembly likewise passes the same proposed amendment without alteration by a majority of the members in each house, then the proposed amendment is submitted to the people, and if approved by a majority of those voting on the amendment, it thereby becomes a part of the Constitution. This process is slow; but it makes changes in the Constitution possible and at the same time safeguards the State against hasty or ill-considered measures.

Convention by Vote of the People. — To make the people independent of the General Assembly in the matter of constitutional amendments the Constitution of 1857 provides that every tenth year after 1870 the question, "Shall there be a Convention to revise the Constitution, and amend the same?" shall be submitted to the qualified voters at the general election. Thus far the people have

never indorsed the proposition for a convention, though the vote was very close in 1900. As a rule comparatively few of the voters have voted on the question.

Convention by Vote of the Legislature. — The General Assembly is also empowered to submit the question of a convention to the people whenever they deem it advisable.

Popular Government. — Thus we see that the government of Iowa is a government by the people; and though the people may be negligent or misled for a while, when once aroused they have the power to compel obedience to their will. Constitutions are not written simply to be studied by pupils and students, but to express the will of the people and make possible at all times the expression of that will. The legislative department naturally voices the public will and enacts in response to popular demands a great variety of laws which may, however, be swept away at any future time.

The concluding chapters will be devoted to a consideration of some of the more important activities of government as provided for by State legislation.

QUESTIONS ON THE TEXT.

1. What power may alter or amend the Constitution of Iowa?
2. What is the process of amending the Constitution through the agency of the General Assembly?
3. Of what advantage is it to submit the question of amendment to the people every ten years?

ADDITIONAL READINGS.

NOTE.—I. J. H. P. = *Iowa Journal of History and Politics*.

Proposed Constitutional Amendments in Iowa, 1836-1857, I. J. H. P., Vol. VII, p. 266.

Proposed Constitutional Amendments in Iowa, 1857-1909, I. J. H. P., Vol. VIII, p. 171.

CHAPTER XVIII.

TAXATION.

The Justification for Taxation. — In Chapter XII reference was made to the functions of government, that is, the activities of the State undertaken either for the maintenance of its own existence or for the promotion of the general welfare of society. In order to carry out these functions, it is necessary that the State should have sufficient revenue to compensate those who serve the State and to meet other expenses incident to the administration of the government. This public revenue is derived largely from taxation. Taxation has been said to be the price we pay for civilization. The State gives to the citizen both liberty and protection; and in return the citizen should contribute to the support of the government in proportion to his ability — and his ability has generally been measured by the value of his property.

Taxation a Difficult Problem. — To estimate the amount of revenue necessary to meet the needs of government, to provide for a fair assessment and equalization of property, and to arrange for the final collection of the taxes is no small task, since the kinds of property from which taxes must be raised are so numerous that some find it easy to

escape their just share of taxation while others are unjustly assessed.

Kinds of Taxes. — In Iowa the chief source of revenue has been a tax imposed at a certain rate per cent upon all property, real and personal, the evaluation and assessment of which is made by township assessors. This is the so-called general property tax. Besides the general property tax there are special taxes, including a variety of different taxes such as poll tax, road tax, corporation taxes, inheritance taxes, etc.

The Process of Taxation. — The process of taxation includes (1) the levy of the tax, (2) the assessment of property, (3) the equalization of assessment, and (4) the collection of the revenue. The first step in the process is making the levy, that is, determining the amount to be raised. The State Legislature determines the amount to be raised for State purposes; the Board of Supervisors the amount for the county; the Trustees the amount for the township; and the city or town Council the amount for the city or town.

The Assessment of Property. — By assessment is meant the placing of a valuation upon property listed for taxation. In Iowa the law requires that property should be listed at the full cash value and assessed at one-fourth of said value. In reality property is listed at not more than half its cash value in many cases (and frequently less), the result being that many people actually pay taxes on about one-tenth the cash value of their property. Much

of the dissatisfaction with the general property tax is the process of assessment, due to a large extent to the shortcomings of local assessors.

The Undervaluation of Property. — The work of the assessor is often trying. He finds that the taxpayers desire a low assessment, and he frequently yields to their demands to undervalue property in order not to become unpopular in his community. As a result many inequalities arise. In his work on the *History of Taxation in Iowa*, Professor John E. Brindley has shown how great some of the inequalities in assessments really are. Thus, in 1893 the average value of cattle in Adair County was \$6.96 per head; in Calhoun County, \$5.11; in Clark County, \$9.05; in Des Moines County, \$10.45; and in Wright County, \$4.66. "It would be instructive, for example," says Professor Brindley, "to know what breed of swine was raised at that time in Sioux County, where the assessed value was only fifty-four cents, as compared with Webster County, where the assessed value was \$4.00."

The Concealing of Moneys and Credits. — Lands and many other forms of property cannot be concealed; but an enormous amount of wealth is represented by stocks, bonds, mortgages, and other securities which cannot easily be discovered if the owners omit or refuse to list them. Frequently the assessor does not try to discover this kind of property — sometimes because he feels that to assess it would work a real hardship upon the individual, and sometimes, unfortunately, because he expects to profit personally by not listing it.

Exemptions. — Not all kinds of property are taxed. Federal, State, and local government property is not taxed. The property of religious, scientific, literary, and benevolent associations in actual use is also usually exempt. A mechanic's tools, a teamster's team and wagon, and farm stock under a certain age are exempt. Honorably discharged soldiers and sailors are allowed certain exemptions from taxation on property held by them. The Legislature is constantly expanding or contracting the list of exemptions.

The Equalization of Assessments. — In order to correct inequalities of assessment as between persons and places, a scheme of equalizing valuations has been provided by law. The Township Trustees constitute a local Board of Review for the township; the city or town Council constitutes such a board for the city or town; the Board of Supervisors constitutes a board of review for the County; and the Executive Council constitutes a board of review for the State. It is the duty of boards of review to compare and equalize assessments, but in reality these functions are almost always performed in a perfunctory manner, the boards themselves being mere statutory makeshifts.

The Rate of Taxation. — Taxes having been levied, assessed, and equalized, the next step in the process is to compute the tax that each individual or corporation is required to pay. The State Auditor notifies the County Auditor of the amount of the State levy, and he knows the

rates for certain general taxes as provided by law. The rate of taxation is ascertained by dividing the total amount of taxes (State, county, and local) to be raised in a given taxation district by the total valuation of property in the district as shown on the assessment list, and the amount due on all property is then computed.

The Collection of Taxes. — When the tax list is complete, it is delivered to the County Treasurer, who is the collector of all taxes on the tax lists. One-half the taxes due must be paid between the first Monday in January and the first day of March following, and the other half before the first day of September following. When taxes are not paid as required, they are said to be “delinquent,” and a penalty of one per cent per month is added till payment is made. If the tax is not paid before the first Monday in December, the property will be sold at public auction to pay the tax. Property so sold may be redeemed in accordance with law.

Tax Reform. — Our system of taxation is very unsatisfactory because it is an antiquated system. It was hoped that the Tax Commission appointed by the Governor in 1911 would recommend a more equitable system. The Commission did recommend noteworthy changes but the General Assembly refused to act upon them.

In the early days most of the people of Iowa possessed about the same kind of property, and it was easy to find a basis of taxation which fell about equally on all the members of the community. But as our society has become

more complex, due to the large increase in population and the tendency of people to crowd into the cities, new forms of wealth and new business methods have sprung up, which make the amount of personal and real property owned a very inadequate test of ability to pay taxes. To-day men with large incomes may own no taxable property. A street car company's right to use the streets is of much more value than their cars, barns, and rails. All public service corporations do a large volume of business which is entirely out of proportion to the value of their physical property.

From the experience of other States that have remodelled their tax laws, it appears that the reforms most needed are the proper supervision of general property assessments and the expert valuation or assessment of public service corporations by a permanent non-partisan tax commission.

QUESTIONS ON THE TEXT.

1. Is it unjust to compel one to contribute toward the support of government?
2. Why is it difficult to levy a tax that will fall equally upon all citizens?
3. Name some of the special taxes which the citizen must pay.
4. Describe the process of taxation.
5. Can a man who undervalues his property for purposes of taxation claim to be honest?
6. Is the possession of real estate a good test of one's ability to pay taxes?
7. What is the purpose of exempting from taxation the property of churches and benevolent societies?
8. What kinds of property ought to pay more taxes than they now do?

ADDITIONAL READINGS.

Tax Administration in Iowa, Iowa Applied History Series, Vol. I, p. 495.
History of Taxation in Iowa, 2 vols., by John E. Brindley.

CHAPTER XIX.

EDUCATION AND THE SCHOOL SYSTEM.

Origin of the School System. — Our school system takes its origin in the Ordinance of the Northwest Territory of 1787, which declared that “ Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.” This recognition by law that the education of the youth was one of the functions of government had a profound influence upon the development of schools in all of the western States.

The provisions of the Ordinance of 1787 were extended to Iowa when the Iowa country came under the jurisdiction first of the Territory of Michigan and then of the Territory of Wisconsin. When Iowa became a separate Territory in 1838, one of the first acts of the Legislative Assembly was to provide for a system of public education. But the meagre resources of the people made it impracticable to establish public schools for nearly ten years after Iowa was admitted into the Union. In the meantime, however, schools were maintained and supported by private enterprise.

Private Schools. — The first school teacher in Iowa was Berryman Jennings, who taught a school in what is now

Lee County in 1830. Another early teacher was Jesse Berry, who conducted a school at Iowa City in Johnson County within one block of the present site of the highest educational institution in Iowa, the State University. In those pioneer days Jesse Berry conducted his little school during the winter months and worked at almost anything that would give him employment during the summer. His account book, which has been preserved, shows how he received his pay for tuition. The following are interesting examples of pioneer accounting:—

| | |
|--|-------------|
| George T. Andrews | Dr. |
| To tuition up to Aug. 20, 1840 . . . | 5.23 |
| | Cr. |
| By one $\frac{1}{2}$ days brick laying @ 2.50. . . | 1.25 |
| By one days " " Webber . . . | 2.50 |
| By one $\frac{1}{4}$ day per self | .63 |
| By 12 lights sash (from Pool) . . . | 1.50 |
| | <u>5.68</u> |
| F. E. Jones | Dr. |
| To tuition up to the time he ran away . . . | \$9.00 |
| Cr. by washing up to the same time . . . | 2.00 |

School Lands.—The Congress of the United States has given great encouragement to education by liberal donations of public land in all of the States and Territories. In his monograph on *Federal and State Aid to Education in Iowa*, Dr. H. S. Buffum points out that "the several Federal land grants made to Iowa for education, or made with other ends in view and afterward diverted to educational purposes," include (1) the Sixteenth Section Grant;

(2) the Five Hundred Thousand Acre Grant; (3) the University Grant; (4) the Agricultural College Grant; (5) the Saline Land Grant; (6) the Five Section Grant; and (7) the Swamp Land Grant.

About twelve million acres of land were thus donated by Congress for educational purposes in Iowa. These lands were not, however, always wisely or advantageously disposed of. Most of the land was sold at \$1.25 per acre, and some of it was sold as low as twenty-five cents per acre. Had Iowa, like Minnesota and some other States, kept only one-third of her school land till the present day, our State would now have a much larger school fund.

The estates of deceased persons who leave no will or heir, and the clear proceeds of all fines collected in the several counties for the breach of the penal laws are made a part of the school fund in each County. The amount of money expended in Iowa annually for education is very large; it is almost half of the total amount expended by the State for all purposes.

The Common Schools. — The system of common schools as now organized provides for two classes of school corporations,—the school township and the independent district. The school township generally coincides with the civil township in boundaries. The affairs of each school corporation are conducted by a board of directors. In the independent districts and school townships the directors are elected for three years, while in the subdistricts of the school township, if the township has been so divided, they are elected for one year. The management of all school

affairs in the school townships is in the hands of the school board, but most of the authority they exercise is granted to them by the voters of the school corporation at the annual school meeting. Independent districts may be established either in the rural communities or in cities and towns.

The school system of Iowa lacks coördination. We have a system of common schools of two classes, namely, school townships, which may be divided into subdistricts, and independent districts. Provision has been made by law for county high schools, but there is no provision for city high schools. The Code permits each independent district to maintain "one or more schools of a higher order." The existence of high schools is, however, recognized in many different places in the law. We have a State Superintendent, County Superintendents, and City Superintendents; and yet each is practically independent of the others. Each town or city selects its own teachers and largely prescribes its own courses of instruction. In recent years the State Legislature has prescribed that certain things must be taught in the public schools. Thus elementary agriculture, domestic science, and manual training are required by law to be taught. In like manner the study of American citizenship has been required.

The State Superintendent. — All teachers in the public schools of Iowa must pass examinations under the direction of the State Board of Educational Examiners, or be graduates of colleges accredited by the board. The State Superintendent is charged with the general supervision of all the

County Superintendents and the common schools of the State. He may call the County Superintendents in convention, but cannot compel their attendance.

The State Superintendent collects and publishes a large number of school statistics. If any County Superintendent fails to make any report as required by law, the State Superintendent may appoint some suitable person to perform such duties, and the delinquent County Superintendent must pay for such work.

While the State Superintendent may pass upon the qualifications of teachers, he cannot place a single teacher; and his power to determine the course of study to be pursued is considered as obsolete. The Board of Directors of each school corporation elects its own teachers (who must be qualified according to law), adopts its own courses of study, and determines what text-books are to be used.

The County Superintendent. — The County Superintendency is no longer a political office. At least the election of a County Superintendent is not made by popular election. The County Superintendent confines his activities to the rural schools. He must see that the provisions of the school law as it relates to the schools or school officers of his County are enforced. He may revoke a teacher's certificate for cause, subject, however, to an appeal to the State Superintendent.

The Independent Districts. — The independent districts are really independent. We have already noted that they adopt their own courses of study and elect superintendents,

principals, and teachers independent of the County or the State Superintendent.

The School Laws of Iowa. — Educational experts have declared that many of our district schools are wasteful and inefficient; that many parts of the school laws are obsolete; and that many sections of the law are contradictory. It is a fact that the school laws of the State are in great confusion and badly in need of systematic arrangement. The Educational Commission, appointed in 1907, recommended an entirely new code of school laws looking toward the unifying and coördinating of the entire school system of the State. Unfortunately the legislature did not accept the recommendations of the Commission.

The County High School. — So firmly is the theory fixed that each community must keep up a system of common schools that but few Counties have taken advantage of the provisions made by law for the organization of County high schools. In order to give rural pupils the benefits of high school education a recent law provides that any pupil may attend any high school, if one is not maintained in his home district, and his tuition must be paid by his home district.

The Purpose of Education. — To-day the State looks upon education not only as a function which should be undertaken for the benefit of its citizens, but as a duty which the citizen owes to the State. And so, we have not only free education, but compulsory education. The schools may be supplied with truant officers to see that

children attend school, and parents may be punished for failing to send their children to school. Many schools to-day aim, not only to teach the pupils reading, writing, and arithmetic, but they are also giving instruction in manual training and mechanic arts, cooking, and sewing. Thus, the school not only lays the foundation for a general education, but it also prepares the individual for a useful life in society.

The Training of Teachers. — Of the children who enter the primary grades in any year, only about one-half reach the grammar school; and perhaps less than half of these complete the high school course. And of those who complete the high school course, only a very few enter the college or university.

In order to better prepare those who wish to teach in the rural schools after graduation from the high school, the State, under the supervision of the State Superintendent of Public Instruction, grants \$750 per year for the introduction of normal courses in certain accredited high schools. This recent act is in keeping with the past policy of the State in the matter of training teachers for the public schools.

The County Institute. — The County Superintendent usually conducts a normal institute in his County for a week or two each year, in order to give to teachers and those who wish to teach an opportunity to review the common branches.

The State Teachers' College. — A State Normal School (now called the State Teachers' College) was established in

1876 at Cedar Falls "for the special instruction and training of teachers for the common schools." Urgent demands were made before the Legislature in 1911 for the establishment of a like institution in the southern part of the State, but as yet no action has been taken.

The School of Education. — At the State University of Iowa at Iowa City a School of Education was established in 1907 "to educate men and women as teachers of special subjects in the best high schools, as principals of high schools and graded schools, as superintendents of schools, as supervisors of special subjects, as directors of kindergartens, and as instructors and professors in colleges and normal schools."

The State Historical Society. — At Iowa City the State has for over a half century supported the State Historical Society of Iowa — an institution which may be classed as one of the educational agencies of the Commonwealth. This Society has accumulated a library of over 53,000 titles for the use of those interested in State and local history. Under the direction of its Superintendent researches in Iowa history are made by trained students. Besides a quarterly journal of history and politics, the Society publishes several volumes of history each year. The publications of the Society are sent to practically all the public and college libraries throughout the State.

Agricultural Education at the State College. — The farmer is a very busy person. He has neither time nor

money to spend upon doubtful experiments. The State, however, through its agricultural college at Ames is able to undertake a great variety of experiments. When results have been obtained, the knowledge of which will materially benefit the farmer, the State not only publishes the results of such experiments, but by "short courses" and "farmers' institutes" the results of costly and painstaking experiments are made clear to the farmer in his own locality. The methods of selecting, grading, testing, and planting seed corn have been revolutionized by agricultural education.

The State Fair. — Nor should the State Fair as an agent in agricultural education be forgotten, for it is there that many a farmer gets his inspiration to be a better farmer by the adoption of new labor-saving devices or the purchase of better stock.

Other Educational Agencies. — The organization of a school system does not complete the State's function of education. Public libraries are maintained where the citizen may freely acquaint himself with the best literature the world has produced. Art galleries, museums, and zoölogical gardens are maintained, not merely for the recreation they afford, but for their educational value. In European countries even theatres and opera-houses are maintained as a part of public instruction, and through the presentation of high-class performances, historical and allegorical in their nature, the people are taught patriotism and acquire an appreciation of art.

QUESTIONS ON THE TEXT.

1. Where did the school system of Iowa take its origin?
2. What encouragement to education in Iowa was given by the Federal government?
3. What criticism may be passed upon the disposition of the school lands in Iowa?
4. How does a school township differ from an independent district?
5. What criticism may be passed upon the present school system of Iowa?
6. What relation does education bear to good citizenship?
7. What provisions have been made in Iowa for the training of teachers?
8. What is the value of agricultural education?
9. Name other educational agencies besides schools.

ADDITIONAL READINGS.

- Laying by Some Money for Schools*, Aurner's Iowa Stories, Bk. II, p. 112.
Laws for the Public Schools, Aurner's Iowa Stories, Bk. II, p. 122.
The First State School, Aurner's Iowa Stories, Bk. II, p. 129.
The First Colleges, Aurner's Iowa Stories, Bk. II, p. 132.

CHAPTER XX.

SOCIAL AND ECONOMIC LEGISLATION.

Our Complex Society. — In less than three-quarters of a century Iowa has been changed from a prairie wilderness to the home of a highly complex social organism. It has passed through the fur trading stage to the industrial stage. Many distinct interests are represented in our population, each seeking to promote its own welfare through legislation. To regulate these various and conflicting interests has become the most important and the most difficult task of the General Assembly.

Corporations. — Iowa is now covered by a network of railroads. Thousands of factory chimneys pour forth their black smoke over our once fair prairies. Nearly every town has one or more banks which receive deposits and make loans. Telegraph and telephone poles and express wagons are visible evidences of the great business interests which are in our midst. Our busy streets are closely built with business houses. Mines and quarries are yielding up their buried treasures. Nearly all of these enterprises are now conducted by corporations organized under authority of law and endowed with special privileges and immunities which the individual does not enjoy. To control these

corporations, to keep them from becoming oppressive monopolies, to compel them to render an adequate service upon equal terms to all, to compel them to pay their just share of taxation, and to prevent them from corrupting the whole administration of government for private gain has been the great problem of the modern State.

Labor Legislation. — In order to encourage business enterprises, the State at first took a very liberal attitude toward business corporations, and few restrictions of any kind were placed upon their activities. The industrial era, however, has developed a new class in society — the working class — who have found their chief means of resisting what they term the excessive and unreasonable demands of capital in banding themselves together into close organizations called unions.

Through the efforts of these labor organizations the laboring class has succeeded in getting the State to recognize in the law many of the demands of labor. Thus there is legislation determining the hours of labor and the age at which children may be employed; there is legislation relative to the employment of women in factories; there is legislation securing safety and sanitary conditions to the workers in factories; and gradually there has come a recognition of the fact that industry must pay for the maimed bodies and lost lives of its workers as it pays for discarded and worn-out machinery.

Violence and disorder are never tolerated in an orderly society; yet men have sometimes resorted to both violence and disorder to force concession from the unwilling hands

of employers. In order to prevent strikes or to quickly bring labor and capital to a friendly understanding, some States have established boards of arbitration and conciliation, by which industrial disputes have been successfully adjusted.

Public Health.— With the complete freedom of movement which we enjoy, with the crowding of people in cities, and with the development of easy and rapid means of transportation the protection of public health has necessarily received much attention from our lawmakers in recent years. Medical science has shown that contagious disease readily becomes epidemic if proper precautions are not taken. The State has kept pace with science by requiring vaccination and quarantine to prevent the spread of certain diseases. Science analyzes the food we eat, the milk and water we drink, and the drugs we take; while the legislature promptly enacts appropriate laws for the protection and preservation of our health.

It is in the interests of public health and safety that the erection of buildings, the construction of stairways and fire-escapes, and the swinging of doors on public buildings are now regulated by law. In like manner laws regulating light, ventilation, and sanitation in public buildings safeguard our health. In the interest of public health "the emission of dense smoke" was prohibited by law in 1911 in cities of over 65,000 inhabitants. It is in the interests of public health that the streets in the larger cities are paved. Sewerage systems are built, garbage is collected, streets and alleys are cleaned because it is now a well

recognized fact that dirt and foul air are two of the most active promoters of disease.

Many of the laws made by the State in the interest of public health are enforced by the local communities. Thus, the Township Trustees constitute a board of health for the township; the city Council acts as a board of health for the city, and employs a special health officer. The State Board of Health, moreover, has general supervision of the lives and health of the people of the State, and is authorized to make rules and regulations as to inspection of public health which have the same force as laws.

Public Charities. — There are two classes of unfortunates in society — the defective and the dependent. The State takes care of both, partly to protect society and partly because we dislike to see any one suffer or remain in want. Thus the insane, the idiotic, the feeble-minded, epileptic, and the inebriate are housed and given scientific and humane treatment by the State. The deaf and the blind are educated by the State and made useful members of society in spite of their misfortune.

The care and treatment of crippled children at the State's expense in the Perkins Hospital at Iowa City has already more than justified the expense.

The dependent class includes poor, orphan, and outcast children. The State takes charge of the orphans and the outcast children, while the poor are cared for in a home maintained by the County, or are granted supplies or other aid from time to time by the Township Trustees or by an official appointed for cities by the Board of Super-

visors known as Overseer of the Poor. In fact, the mother's pension is only a disguised form of poor relief. In addition to these public means of caring for the poor, many charitable societies and individuals afford aid.

The greatest problem in giving to the poor is to be able to discriminate the worthy poor from the impostors. It sometimes happens that persons who have been the recipients of public aid for many years die leaving a considerable bank account. Indiscriminate giving encourages pauperism and promotes the idea that the world owes one a living. To prevent fraud in the collection of funds for charitable purposes, all organizations, institutions, or associations soliciting public donations are required by law to obtain a license from the Secretary of State. The County poorhouses, moreover, have often been mismanaged and the unfortunate inmates have been cruelly treated. The system of returning to the County poorhouses the incurable insane has made the ordinary County house anything but a pleasant place of abode.

Crime, Punishment, Correction. — Obedience to law is the first requisite of good citizenship. When laws are broken, some form of punishment must follow or there will soon be no respect for the law. Lawful punishments are of three kinds: (1) fines, that is, the payment of certain sums of money for the violation of law; (2) imprisonment, which varies according to the offence from a few days to a life sentence; and (3) the death penalty, which is inflicted sometimes as a punishment for murder.

Of these three kinds of punishment the State of Iowa,

as well as other States, has been most interested in the imprisoned offender, and much legislation has been enacted looking toward his reformation. To-day we insist that a prisoner has a right to safe and sanitary surroundings, to wholesome food, and to influences that may show him the error of his ways and teach him to become a good citizen. For first offenders an indeterminate sentence is pronounced, by which the term of imprisonment may be shortened by good behavior. In such cases release on parole is granted, subject to reimprisonment if the conditions of the parole are violated.

The State has provided correctional schools for wayward boys and girls who are without parents or whose parents cannot control them. These correctional schools provide a system of industrial education; and when the boys and girls are released, they are aided in securing honest employment and are encouraged to become useful members of society.

Fire Protection. — One of the great calamities which may at any time overtake a community is destruction by fire. And so, the State gives to every community the right to take proper precautions to prevent fires. The smaller communities can hardly afford to do much more than purchase a number of buckets and a few ladders which may be used by any one in case of fire. The larger communities usually have volunteer fire companies which use apparatus owned by the community. In the large cities there is usually a highly trained and efficient force of fire fighters, receiving compensation from the city.

State Fire Marshal. — Fire not only destroys much property, but frequently causes loss of life. In order to gain a better knowledge of the causes of fires and the means of preventing them, the General Assembly, in 1911, created the office of State Fire Marshal. This official may appoint a deputy and inspectors who are authorized to enter and inspect buildings for the purpose of determining whether they are especially liable to fire or are so situated as to endanger other buildings. The State Fire Marshal is required to keep a record of all fires occurring in the State, showing the value of the property destroyed, the amount of insurance thereon, and the amount actually collected, together with the origin or cause of the fire as ascertained. The State Fire Marshal or his deputies are directed to require all teachers in buildings of more than one story to conduct at least one fire drill each month, and to keep all doors unlocked during school hours.

The Highways. — To provide an easy and convenient means of transit from one place to another was one of the earliest functions of government. Military roads were first built to facilitate the transportation of troops. Private companies sometimes built turnpikes or toll roads; but as the Congressional survey provided for roads along the section lines, no important system of private or toll roads was ever constructed in Iowa.

As Iowa has become a well settled country, the old and wasteful methods of caring for the public highways are about to be abandoned. Heavy traffic and the common use of the automobile have created a demand for the ade-

quate and permanent improvement of the public highways. The townships and Counties having shown their inability to solve the problem of good roads, an appeal has been made to the State to take up this function. We already have a State Highway Commission, now vested with considerable power. The most important piece of highway legislation enacted so far was passed in 1919, under which the Counties may provide for the construction of permanent hard-surfaced roads. Good roads are an economic necessity. Indeed, it has been demonstrated that the force which is required to draw a ton over a muddy road will draw four tons upon a well constructed hard road.

The Preservation of Natural Resources. — The pioneers used lavishly the bountiful resources of the State, apparently with little heed for the future. The present generation, however, is trying by legislation to protect and restore some of the natural resources of the commonwealth. The rapid disappearance of the forests has prompted the Legislature to pass laws for the encouragement of planting forest trees. Much legislation has been enacted for the protection and propagation of birds, fish, and game. To re-stock our depleted coverts, many English pheasants and Hungarian partridges have recently been turned loose in different parts of the State under the direction of the Fish and Game Warden.

Legislation Relative to Morals. — We boast of our great liberty, and yet the State controls our actions in many ways. Iowa has many laws governing conduct, some of which are "more honored in the breach than in the observ-

ance," because public opinion does not demand their enforcement. In fact it is very difficult in a country like ours to enforce any law which does not have the support of public sentiment.

The Code of Iowa declares certain kinds of actions or conduct to be illegal at certain times only, while others are declared to be illegal at any time. Thus the law declares that no one shall carry firearms, hunt, shoot, dance, play ball, race horses, buy or sell property of any kind, or perform any labor except that of necessity or charity upon the Sabbath day. In like manner, ball games, horse-racing, and other sports are prohibited before 3 P.M. on Memorial Day.

Of the activities absolutely prohibited prize fighting, lotteries, betting, gambling, and vices of all kinds may be mentioned. A few years ago the Legislature prohibited the organization of fraternities or secret societies in the public schools because they were deemed undemocratic and detrimental to the moral training of the youth. Minors are not allowed to patronize pool halls, saloons, and cigarette stands.

In regard to the liquor traffic Iowa seems to have tried everything from wide-open saloons to complete prohibition. A couple of years before the national prohibition amendment went into effect Iowa had gone "dry" by action of our State Legislature.

The Police Force and the Militia. — To preserve order, to arrest offenders, and to enforce the multitude of laws upon our statute books requires a large number of officials

in whom special authority has been vested. In the study of local government we have already noted that the township has its two Constables, but they are seldom equal to an emergency. The County Sheriff acts largely under the orders of the District Court or County Attorney.

In our towns and cities reliance is ordinarily placed in a different group of peace officers. Thus, our towns have their Marshal and Deputy Marshal, frequently very inefficient officials. Cities of the second class have a Marshal, Deputy Marshal, and usually two or more Policemen; while in the larger cities the police force becomes a rather numerous body organized on a semimilitary basis.

Ordinarily public order is fairly well preserved through the local officials, who bring offenders before the courts where they are tried and sentenced. But in case of mob violence, riot, insurrection, or other great disturbances the court processes practically stand still. In such cases masses bent upon public disturbance or the overthrowing of the constituted authorities of government must be met by masses representing the authority of government. Thus, when the Mayor finds that his police force cannot cope with a public disturbance, he may call upon the Sheriff of the County who may swear in additional *députies* or call out the *posse comitatus*. When the Sheriff can no longer handle the situation, he appeals to the Governor as commander-in-chief of the State militia forces; and the Governor may order out as many companies of militia as he deems sufficient to restore and preserve public peace and order.

Back of all of these representatives of public authority

stand the people of the State who, if they wish to see public order preserved and the welfare of the State promoted, must themselves be obedient to the laws and work unceasingly for the selection of honest and efficient public servants and the promotion of the general welfare.

QUESTIONS ON THE TEXT.

1. Why does the State undertake to regulate and control corporations and other business agencies?
2. Is it proper to regulate by law the hours of labor, if men are willing to work longer hours for increased pay?
3. If a laborer is injured in his employment should his employer pay for the injury the same as he would for a broken machine?
4. What actions are performed in the interests of public health?
5. How could the health of your community be improved through governmental agencies?
6. Why is the giving of aid to the poor a difficult problem?
7. What attitude should society take toward one who has committed a crime?
8. How does the State undertake to regulate conduct in the interest of public morals?
9. Upon whom does the responsibility for good government rest—upon the police and militia or upon the people of the State?

ADDITIONAL READINGS.

NOTE. —I. J. H. P. = *Iowa Journal of History and Politics*.

- Work Accident Indemnity in Iowa*, Iowa Applied History Series, Vol. I, p. 421.
- Regulation of Urban Utilities in Iowa*, Iowa Applied History Series, Vol. I, p. 95.
- Social Legislation in Iowa*, Iowa Applied History Series, Vol. II, p. 499.
- Child Labor Legislation in Iowa*, Iowa Applied History Series, Vol. II, p. 559.
- Poor Relief Legislation in Iowa*, Iowa Applied History Series, Vol. II, p. 631.
- The Roads and Highways of Territorial Iowa*, I. J. H. P., Vol. III, p. 175.
- Road Legislation in Iowa*, Iowa Applied History Series, Vol. I, p. 3.
- The Beginnings of Liquor Legislation in Iowa*, I. J. H. P., Vol. IV, p. 193.
- Recent Liquor Legislation in Iowa*, I. J. H. P., Vol. XV, p. 42.

APPENDIX.

THE CONSTITUTION OF IOWA.

PREAMBLE.

ARTICLE I. BILL OF RIGHTS.

ARTICLE II. RIGHTS OF SUFFRAGE.

ARTICLE III. OF THE DISTRIBUTION OF POWERS. LEGISLATIVE DEPARTMENT.

ARTICLE IV. EXECUTIVE DEPARTMENT.

ARTICLE V. JUDICIAL DEPARTMENT.

ARTICLE VI. MILITIA.

ARTICLE VII. STATE DEBTS.

ARTICLE VIII. CORPORATIONS.

ARTICLE IX. EDUCATION AND SCHOOL LANDS.

ARTICLE X. AMENDMENTS TO THE CONSTITUTION.

ARTICLE XI. MISCELLANEOUS.

ARTICLE XII. SCHEDULE.

PREAMBLE.

We, the People of the State of Iowa, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of those blessings, do ordain and establish a free and independent government, by the name of the State of Iowa, the boundaries whereof shall be as follows :

Boundaries. Beginning in the middle of the main channel of the Mississippi river, at a point due east of the middle of the mouth of the main channel of the Des Moines river; thence up the middle of the main channel of the said Des Moines river, to a point on said river where the northern boundary line of the state of Missouri — as established by the constitution of that state, adopted June 12th, 1820

— crosses the said middle of the main channel of the said Des Moines river; thence westwardly along the said northern boundary line of the state of Missouri, as established at the time aforesaid, until an extension of said line intersects the middle of the main channel of the Missouri river; thence up the middle of the main channel of the said Missouri river to a point opposite the middle of the main channel of the Big Sioux river, according to Nicollett's map; thence up the main channel of the said Big Sioux river, according to the said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude; thence east along said parallel of forty-three degrees and thirty minutes, until said parallel intersects the middle of the main channel of the Mississippi river; thence down the middle of the main channel of the said Mississippi river to the place of beginning.

ARTICLE I. — BILL OF RIGHTS.

Rights of persons. Section 1. All men are, by nature, free and equal, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

Political power. Sec. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it.

Religion. Sec. 3. The general assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates, for building or repairing places of worship, or the maintenance of any minister or ministry.

Religious test. Sec. 4. No religious test shall be required as a qualification for any office of public trust, and no person shall be deprived of any of his rights, privileges, or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion; and any party to any judicial proceeding shall have the right to use as a witness, or

take the testimony of, any other person, not disqualified on account of interest, who may be cognizant of any fact material to the case; and parties to suits may be witnesses, as provided by law.

Dueling. Sec. 5. Any citizen of this state who may hereafter be engaged, either directly or indirectly, in a duel, either as principal or accessory before the fact, shall forever be disqualified from holding any office under the constitution and laws of this state.

Laws uniform. Sec. 6. All laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen or class of citizens, privileges or immunities, which upon the same terms shall not equally belong to all citizens.

Liberty of speech and the press. Sec. 7. Every person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech, or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury, and if it appear to the jury that the matter charged as libelous was true, and was published with good motives and for justifiable ends, the party shall be acquitted.

Personal security. Sec. 8. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

Trial by jury; due process of law. Sec. 9. The right of trial by jury shall remain inviolate; but the general assembly may authorize trial by a jury of a less number than twelve men in inferior courts; but no person shall be deprived of life, liberty, or property, without due process of law.

Rights of persons accused. Sec. 10. In all criminal prosecutions, and in cases involving the life or liberty of an individual, the accused shall have a right to a speedy and public trial by an impartial jury; to be informed of the accusation against him; to have a copy of the same when demanded; to be confronted with the witnesses against him; to

have compulsory process for his witnesses ; and to have the assistance of counsel.

When indictment necessary. Sec. 11. All offenses less than felony, and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, shall be tried summarily before a justice of the peace, or other officer authorized by law, on information under oath, without indictment, or the intervention of a grand jury, saving to the defendant the right of appeal ; and no person shall be held to answer for any higher criminal offense, unless on presentment or indictment by a grand jury, except in cases arising in the army or navy, or in the militia, when in actual service, in time of war or public danger.

Twice tried ; bail. Sec. 12. No person shall, after acquittal, be tried for the same offense. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, where the proof is evident, or the presumption great.

Habeas Corpus. Sec. 13. The writ of habeas corpus shall not be suspended or refused when application is made as required by law, unless, in case of rebellion or invasion, the public safety may require it.

Military. Sec. 14. The military shall be subordinate to the civil power. No standing army shall be kept up by the state in time of peace ; and in time of war no appropriation for a standing army shall be for a longer time than two years.

Quartering soldiers. Sec. 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

Treason. Sec. 16. Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason, unless on the evidence of two witnesses to the same overt act, or confession in open court.

Bail ; punishments. Sec. 17. Excessive bail shall not be required ; excessive fines shall not be imposed, and cruel and unusual punishment shall not be inflicted.

Eminent domain. Sec. 18. Private property shall not be taken for public use without just compensation first being made, or secured to be made, to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.

The general assembly, however, may pass laws permitting the owners of lands to construct drains, ditches, and levees for agricultural, sanitary or mining purposes across the lands of others, and provide for the organization of drainage districts, vest the proper authorities with power to construct and maintain levees, drains, and ditches and to keep in repair all drains, ditches and levees heretofore constructed under the laws of the state, by special assessments upon the property benefited thereby. The general assembly may provide by law for the condemnation of such real estate as shall be necessary for the construction and maintenance of such drains, ditches and levees, and prescribe the method of making such condemnation.

[By proper action of the legislature (31 G. A., joint resolution No. 1 and 32 G. A., joint resolution No. 2) the foregoing paragraph was submitted to vote of the electors at the general election of 1908, and was by them adopted.]

Imprisonment for debt. Sec. 19. No persons shall be imprisoned for debt in any civil action, on mesne or final process, unless in case of fraud; and no person shall be imprisoned for a military fine in time of peace.

Petition. Sec. 20. The people have the right freely to assemble together to counsel for the common good; to make known their opinions to their representatives, and to petition for a redress of grievances.

Attainder; ex post facto law; obligation of contract. Sec. 21. No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall ever be passed.

Resident aliens. Sec. 22. Foreigners who are, or may hereafter become residents of this state, shall enjoy the same rights in respect to the possession, enjoyment, and descent of property, as native-born citizens.

Slavery. Sec. 23. There shall be no slavery in this state; nor shall there be involuntary servitude, unless for the punishment of crime.

Reservation of rents. Sec. 24. No lease or grant of agricultural lands, reserving any rent or service of any kind, shall be valid for a longer period than twenty years.

Rights retained. Sec. 25. This enumeration of rights shall not be construed to impair or deny others, retained by the people.

Intoxicating liquors. (Sec. 26. No person shall manufacture for sale, or sell, or keep for sale, as a beverage any intoxicating liquors whatever, including ale, wine and beer. The general assembly shall by law prescribe regulations for the enforcement of the prohibition herein contained, and shall thereby provide suitable penalties for the violation of the provisions hereof.)

[The foregoing amendment was adopted at a special election held on June 27, 1882. The supreme court, April 21, 1883, in the case of Koehler and Lange vs. Hill, and reported in 60th Iowa, page 543, held that owing to certain irregularities the same was not legally submitted to the electors, and did not become a part of the constitution.]

ARTICLE II. — RIGHTS OF SUFFRAGE.

Electors. Section 1. Every male citizen of the United States, of the age of twenty-one years, who shall have been a resident of this state six months next preceding the election, and of the county in which he claims his vote, sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

[By proper legislative action (11 G. A., chap. 98; and 12 G. A., joint res. No. XI) a proposed amendment, striking the word "white" from this section as it originally stood, was submitted to the electors at the general election in 1868 and adopted.]

Privileged from arrest. Sec. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such elections, going to and returning therefrom.

From military duty. Sec. 3. No elector shall be obliged to perform military duty on the day of election, except in time of war or public danger.

Persons in military service. Sec. 4. No person in the military, naval, or marine service of the United States shall be considered a resident of this state by being stationed in any garrison, barrack, or military or naval place or station within this state.

Insane. Sec. 5. No idiot or insane persons, or person convicted of any infamous crime, shall be entitled to the privilege of an elector.

Ballot. Sec. 6. All elections by the people shall be by ballot.

General Election. Sec. 7. The general election for state, district, county and township officers in the year 1916 shall be held in the same month and on the same day as that fixed by the laws of the United States for the election of presidential electors or of president and vice-president of the United States; and thereafter such elections shall be held at such time as the general assembly may by law provide.

[The original Sec. 7 of Art. II was adopted as an amendment to the Constitution in 1884. This was repealed in 1916 and the present Sec. 7 substituted in its place.]

ARTICLE III.—OF THE DISTRIBUTION OF POWERS.

Departments of government. Section 1. The powers of the government of Iowa shall be divided into three separate departments: The legislative, the executive and the judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

LEGISLATIVE DEPARTMENT

General assembly. Section 1. The legislative authority of this state shall be vested in a general assembly, which shall consist of a senate and house of representatives; and the style of every law shall be—"Be it enacted by the General Assembly of the State of Iowa."

Sessions. Sec. 2. The sessions of the general assembly shall be biennial, and shall commence on the second Monday in January next ensuing the election of its members; unless the governor of the state shall, in the meantime, convene the general assembly by proclamation.

Representatives. Sec. 3. The members of the house of representatives shall be chosen every second year, by the qualified electors of their respective districts, on the second Tuesday in October, except the years of the presidential election, when the election shall be on the Tuesday next after the first Monday in November, and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified.

[By the amendment (Sec. 7) inserted at the end of article 2 the election occurs in November until the general assembly sets another time.]

Eligibility. Sec. 4. No person shall be a member of the house of representatives who shall not have attained the age of twenty-one years; be a male citizen of the United States, and shall have been an inhabitant of this state one year next preceding his election, and at the time of his election shall have had an actual residence of sixty days in the county or district he may have been chosen to represent.

[By an amendment to the constitution properly proposed (17 G. A., joint res. No. 5; 18 G. A., joint res. No. 6), and adopted by vote of the electors at the general election in 1880, the words "free white" were stricken from the second line of this section.]

Senators. Sec. 5. Senators shall be chosen for the term of four years, at the same time and place as representatives; they shall be twenty-five years of age, and possess the qualifications of representatives as to residence and citizenship.

Number and classification. Sec. 6. The number of senators shall not be less than one-third nor more than one-half the representative body; and shall be so classified by lot that one class, being as nearly one-half as possible, shall be elected every two years. When the number of senators is increased, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal in numbers as practicable.

Elections determined. Sec. 7. Each house shall choose its own officers, and judge of the qualification, election, and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

Quorum. Sec. 8. A majority of each house shall constitute a quorum to transact business ; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

Authority of the houses. Sec. 9. Each house shall sit upon its own adjournments, keep a journal of its proceedings, and publish the same ; determine its rules of proceedings, punish members for disorderly behavior, and with the consent of two-thirds, expel a member, but not a second time for the same offense ; and shall have all other powers necessary for a branch of the general assembly of a free and independent state.

Protest. Sec. 10. Every member of the general assembly shall have the liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journals ; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals.

Privilege. Sec. 11. Senators and representatives, in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the general assembly, and in going to or returning from the same.

Vacancies. Sec. 12. When vacancies occur in either house, the governor, or the person exercising the functions of governor, shall issue writs of election to fill such vacancies.

Doors open. Sec. 13. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

Adjournments. Sec. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

Bills. Sec. 15. Bills may originate in either house, and may be amended, altered, or rejected by the other ; and every bill having passed both houses, shall be signed by the speaker and president of their respective houses.

Approval. Sec. 16. Every bill which shall have passed the general assembly, shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter the same upon their journal, and proceed to reconsider it; if, after such reconsideration, it again pass both houses, by yeas and nays, by a majority of two-thirds of the members of each house, it shall become a law, notwithstanding the governor's objections. If any bill shall not be returned within three days after it shall have been presented to him (Sunday excepted), the same shall be a law in like manner as if he had signed it, unless the general assembly, by adjournment, prevent such return. Any bill submitted to the governor for his approval during the last three days of a session of the general assembly, shall be deposited by him in the office of the secretary of state within thirty days after the adjournment, with his approval, if approved by him, and with his objections, if he disapproves thereof.

Majority vote. Sec. 17. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the general assembly, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.

Receipts and expenditures. Sec. 18. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at every regular session of the general assembly.

Impeachment. Sec. 19. The house of representatives shall have the sole power of impeachment, and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

Who liable to; judgment. Sec. 20. The governor, judges of the supreme and district courts, and other state officers, shall be liable to impeachment for any misdemeanor or malfeasance in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under this state; but the party convicted or acquitted shall nevertheless be

liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanors and malfeasance in office, in such manner as the general assembly may provide.

Members not appointed to office. Sec. 21. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office of profit under this state, which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by elections by the people.

Disqualification. Sec. 22. No person holding any lucrative office under the United States, or this state, or any other power, shall be eligible to hold a seat in the general assembly. But offices in the militia, to which there is attached no annual salary, or the office of justice of the peace, or postmaster, whose compensation does not exceed one hundred dollars per annum, or notary public, shall not be deemed lucrative.

Failure to account. Sec. 23. No person who may hereafter be a collector or holder of public moneys, shall have a seat in either house of the general assembly, or be eligible to hold any office of trust or profit in this state, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

Money drawn. Sec. 24. No money shall be drawn from the treasury but in consequence of appropriations made by law.

Compensation of members. Sec. 25. Each member of the first general assembly under this constitution shall receive three dollars per diem while in session; and the further sum of three dollars for every twenty miles traveled in going to and returning from the place where such session is held, by the nearest traveled route; after which they shall receive such compensation as shall be fixed by law; but no general assembly shall have the power to increase the compensation of its members. And when convened in extra session they shall receive the same mileage and per diem compensation as fixed by law for the regular session, and none other.

Laws, when to take effect; publication. Sec. 26. No law of the general assembly, passed at a regular session, of a public nature, shall

take effect until the fourth day of July next, after the passage thereof. Laws passed at a special session shall take effect ninety days after the adjournment of the general assembly by which they were passed. If the general assembly shall deem any law of immediate importance, they may provide that the same shall take effect by publication in newspapers in the state.

Divorce. Sec. 27. No divorce shall be granted by the general assembly.

Lotteries. Sec. 28. No lottery shall be authorized by this state; nor shall the sale of lottery tickets be allowed.

Acts; one subject; expressed in title. Sec. 29. Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

Local or special laws. Sec. 30. The general assembly shall not pass local or special laws in the following cases:

- For the assessment and collection of taxes for state, county, or road purposes;
- For laying out, opening, and working roads or highways;
- For changing the names of persons;
- For the incorporation of cities and towns;
- For vacating roads, town plats, streets, alleys, or public squares;
- For locating or changing county seats.

Laws general and uniform; boundaries of counties. In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the state; and no law changing the boundary lines of any county shall have effect until upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for and against it.

Extra compensation. Sec. 31. No extra compensation shall be made to any officer, public agent, or contractor, after the service shall

have been rendered, or the contract entered into; nor shall any money be paid on any claim, the subject-matter of which shall not have been provided for by pre-existing laws, and no public money or property shall be appropriated for local or private purposes, unless such appropriation, compensation, or claim be allowed by two-thirds of the members elected to each branch of the general assembly.

Oath of members. Sec. 32. Members of the general assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be), that I will support the constitution of the United States, and the constitution of the state of Iowa, and that I will faithfully discharge the duties of senator (or representative, as the case may be), according to the best of my ability." And members of the general assembly are hereby empowered to administer to each other the said oath or affirmation.

Census. Sec. 33. The general assembly shall, in the years one thousand eight hundred and fifty-nine, one thousand eight hundred and sixty-three, one thousand eight hundred and sixty-five, one thousand eight hundred and sixty-seven, one thousand eight hundred and sixty-nine, and one thousand eight hundred and seventy-five, and every ten years thereafter, cause an enumeration to be made of all the inhabitants of the state.

[By proper legislative action (11 G. A., chap. 98, and 12 G. A., joint res. No. XI), a proposed amendment striking the word "white" from this section, as it originally stood, was submitted to the electors at the general election of 1868 and adopted.]

Apportionment. Sec. 34. The senate shall be composed of fifty members to be elected from the several senatorial districts, established by law and at the next session of the general assembly held following the taking of the state and national census, they shall be apportioned among the several counties or districts of the state, according to population as shown by the last preceding census.

Districts. Sec. 35. The house of representatives shall consist of not more than one hundred and eight members. The ratio of representation shall be determined by dividing the whole number of the population of the state as shown by the last preceding state or national

census, by the whole number of counties then existing or organized, but each county shall constitute one representative district and be entitled to one representative, but each county having a population in excess of the ratio number, as herein provided of three-fifths or more of such ratio number shall be entitled to one additional representative, but said addition shall extend only to the nine counties having the greatest population.

Ratio of representation. Sec. 36. The general assembly shall, at the first regular session held following the adoption of this amendment, and at each succeeding regular session held next after the taking of such census, fix the ratio of representation, and apportion the additional representatives, as hereinbefore required.

* [By proper legislative action (29 G. A., joint res. No. 2 and 30 G. A., joint res. No. 2) a proposed amendment repealing sections 34, 35 and 36 of Article III and adopting the three preceding sections in lieu thereof, was submitted to the electors at the general election in 1904 and adopted. The three sections repealed were as follows:

† “**Apportionment.** Sec. 34. The number of senators shall, at the next session following each period of making such enumeration, and the next session following each United States census, be fixed by law, and apportioned among the several counties according to the number of inhabitants in each.

† “**Districts.** Sec. 35. The senate shall not consist of more than fifty members, nor the house of representatives of more than one hundred; and they shall be apportioned among the several counties and representative districts of the state according to the number of inhabitants in each, upon ratios to be fixed by law; but no representative district shall contain more than four organized counties, and each district shall be entitled to at least one representative. Every county and district which shall have a number of inhabitants equal to one-half of the ratio fixed by law, shall be entitled to one representative, and any one county containing in addition to the ratio fixed by law one-half of that number, or more, shall be entitled to one additional representative. No floating district shall hereafter be formed.

* The vote on the amendment was 171,382 for and 165,076 against its adoption. Practically the same amendment was, by proper legislative action (26 G. A., joint res. No. 9 and 27 G. A., joint res. No. 1) submitted to the electors at the general election in 1898 and was rejected, the vote being 33,872 for and 76,931 against its adoption.

† By proper legislative action (11 G. A., chap. 98 and 12 G. A. joint res. No. XI) a proposed amendment striking the word “white” from this section, as it originally stood, was submitted to the electors at the general election, in 1868 and adopted.

“Ratio of representation. Sec. 36. At its first session under this constitution, and at every subsequent regular session, the general assembly shall fix the ratio of representation, and also form into representative districts those counties which will not be entitled singly to a representative.”]

Districts. Sec. 37. When a congressional, senatorial, or representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a congressional, senatorial, or representative district.

Elections by general assembly. Sec. 38. In all elections by the general assembly, the members thereof shall vote viva voce; and the vote shall be entered on the journal.

ARTICLE IV. — EXECUTIVE DEPARTMENT.

Governor. Section 1. The supreme executive power of this state shall be vested in a chief magistrate, who shall be styled the governor of the state of Iowa.

Election and term. Sec. 2. The governor shall be elected by the qualified electors at the time and place of voting for members of the general assembly, and shall hold his office two years from the time of his installation, and until his successor is elected and qualified.

Lieutenant-governor; returns of elections. Sec. 3. There shall be a lieutenant-governor, who shall hold his office two years, and be elected at the same time as the governor. In voting for governor and lieutenant-governor, the electors shall designate for whom they vote as governor, and for whom as lieutenant-governor. The returns of every election for governor and lieutenant-governor, shall be sealed up and transmitted to the seat of government of the state, directed to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the general assembly.

Election by general assembly. Sec. 4. The persons respectively having the highest number of votes, for governor and lieutenant-governor, shall be declared duly elected; but in case two or more persons shall have an equal, and the highest number of votes for either office, the general assembly shall, by joint vote, forthwith proceed to

elect one of said persons governor, or lieutenant-governor, as the case may be.

Contested elections. Sec. 5. Contested elections for governor, or lieutenant-governor, shall be determined by the general assembly in such manner as may be prescribed by law.

Eligibility. Sec. 6. No person shall be eligible to the office of governor, or lieutenant-governor, who shall not have been a citizen of the United States, and a resident of the state two years next preceding the election, and attained the age of thirty years at the time of said election.

Commander-in-chief. Sec. 7. The governor shall be commander-in-chief of the militia, the army, and navy of this state.

Duties. Sec. 8. He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

Execution of laws. Sec. 9. He shall take care that the laws are faithfully executed.

Vacancies. Sec. 10. When any office shall, from any cause, become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the general assembly, or at the next election by the people.

Convening assembly. Sec. 11. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purpose for which they shall have been convened.

Message. Sec. 12. He shall communicate, by message, to the general assembly, at every regular session, the condition of the state, and recommend such matters as he shall deem expedient.

Adjournment. Sec. 13. In case of disagreement between the two houses with respect to the time of adjournment, the governor shall have power to adjourn the general assembly to such time as he may

think proper; but no such adjournment shall be beyond the time fixed for the regular meeting of the next general assembly.

Disqualification. Sec. 14. No person shall, while holding any office under the authority of the United States, or this state, execute the office of governor, or lieutenant-governor, except as hereinafter expressly provided.

Term; compensation of lieutenant-governor. Sec. 15. The official term of governor and lieutenant-governor, shall commence on the second Monday of January next after their election, and continue for two years, and until their successors are elected and qualified. The lieutenant-governor, while acting as governor, shall receive the same pay as provided for governor; and while presiding in the senate, shall receive as compensation therefor, the same mileage and double the per diem pay provided for a senator, and none other.

Pardons. Sec. 16. The governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the general assembly at its next meeting, when the general assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the general assembly, at its next meeting, each case of reprieve, commutation, or pardon granted, and the reasons therefor; and also all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted.

Lieutenant-governor to act as governor. Sec. 17. In case of the death, impeachment, resignation, removal from office, or other disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant-governor.

President of senate. Sec. 18. The lieutenant-governor shall be president of the senate, but shall only vote when the senate is equally

divided; and in case of his absence, or impeachment, or when he shall exercise the office of governor, the senate shall choose a president pro tempore.

Vacancies. Sec. 19. If the lieutenant-governor, while acting as governor, shall be impeached, displaced, resign, or die, or otherwise become incapable of performing the duties of the office, the president pro tempore of the senate shall act as governor until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

Seal of state. Sec. 20. There shall be a seal of this state, which shall be kept by the governor, and used by him officially, and shall be called the great seal of the state of Iowa.

Grants and commissions. Sec. 21. All grants, and commissions shall be in the name and by the authority of the people of the state of Iowa, sealed with the great seal of the state, signed by the governor, and countersigned by the secretary of state.

Secretary, auditor and treasurer. Sec. 22. A secretary of state, auditor of state, and treasurer of state, shall be elected by the qualified electors, who shall continue in office two years, and until their successors are elected and qualified; and perform such duties as may be required by law.

ARTICLE V. — JUDICIAL DEPARTMENT.

Courts. Section 1. The judicial power shall be vested in a supreme court, district court, and such other courts, inferior to the supreme court, as the general assembly may, from time to time, establish.

Supreme court. Sec. 2. The supreme court shall consist of three judges, two of whom shall constitute a quorum to hold court.

[As to the number of judges, see statutory provisions.]

Judges elected. Sec. 3. The judges of the supreme court shall be elected by the qualified electors of the state, and shall hold their court at such time and place as the general assembly may prescribe. The

judges of the supreme court so elected, shall be classified so that one judge shall go out of office every two years; and the judge holding the shortest term of office under such classification, shall be chief justice of the court during his term, and so on in rotation. After the expiration of their terms of office, under such classification, the term of each judge of the supreme court shall be six years, and until his successor shall have been elected and qualified. The judges of the supreme court shall be ineligible to any other office in the state, during the term for which they shall have been elected.

Jurisdiction. Sec. 4. The supreme court shall have appellate jurisdiction only in cases in chancery, and shall constitute a court for the correction of errors at law, under such restrictions as the general assembly may by law prescribe; and shall have power to issue all writs and process necessary to secure justice to parties, and exercise a supervisory control over all inferior judicial tribunals throughout the state.

District court and judge. Sec. 5. The district court shall consist of a single judge, who shall be elected by the qualified electors of the district in which he resides. The judge of the district court shall hold his office for the term of four years, and until his successor shall have been elected and qualified; and shall be ineligible to any other office, except that of judge of the supreme court, during the term for which he was elected.

Jurisdiction. Sec. 6. The district court shall be a court of law and equity, which shall be distinct and separate jurisdictions, and have jurisdiction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.

Conservators of the peace. Sec. 7. The judges of the supreme and district courts shall be conservators of the peace throughout the state.

Style of process. Sec. 8. The style of all process shall be "The State of Iowa," and all prosecutions shall be conducted in the name and by the authority of the same.

Salaries. Sec. 9. The salary of each judge of the supreme court shall be two thousand dollars per annum; and that of each district judge one thousand six hundred dollars per annum, until the year

eighteen hundred and sixty; after which time they shall severally receive such compensation as the general assembly may, by law, prescribe; which compensation shall not be increased or diminished during the term for which they shall have been elected.

Judicial districts. Sec. 10. The state shall be divided into eleven judicial districts; and after the year eighteen hundred and sixty, the general assembly may reorganize the judicial districts, and increase or diminish the number of districts, or the number of judges of the said court, and may increase the number of judges of the supreme court; but such increase or diminution shall not be more than one district, or one judge of either court, at any one session; and no reorganization of the districts, or diminution of the judges, shall have the effect of removing a judge from office. Such reorganization of the districts, or any change in the boundaries thereof, or any increase or diminution of the number of judges, shall take place every four years thereafter, if necessary, and at no other time.

[Amendment.] At any regular session of the general assembly, the state may be divided into the necessary judicial districts for district court purposes, or the said districts may be reorganized and the number of the districts and the judges of said courts increased or diminished; but no reorganization of the districts or diminution of the judges shall have the effect of removing a judge from office.

[By proper legislative action (19 G. A., joint res. No. 12 and 20 G. A., joint res. No. 13) the foregoing was submitted to the electors at the general election in 1884 as a proposed amendment to the constitution, and was by them adopted.]

When chosen. Sec. 11. The judges of the supreme and district courts shall be chosen at the general election; and the term of office of each judge shall commence on the first day of January next after his election.

Attorney-general. Sec. 12. The general assembly shall provide, by law, for the election of an attorney-general by the people, whose term of office shall be two years, and until his successor shall have been elected and qualified.

County attorney. Sec. 13. The qualified electors of each county shall, at the general election in the year eighteen hundred and eighty-

six, and every two years thereafter elect a county attorney, who shall be a resident of the county for which he is elected, and shall hold his office for two years, and until his successor shall have been elected and qualified.

[By proper legislative action (19 G. A., joint res. No. 12 and 20 G. A., joint res. No. 13) a proposition to substitute the foregoing for the original section was submitted to the electors at the general election in 1884, and by them adopted.] The original section was as follows:

Sec. 13. The qualified electors of each judicial district shall, at the time of the election of the district judge, elect a district attorney, who shall be a resident of the district for which he is elected, and who shall hold his office for the term of four years, and until his successor shall have been elected and qualified.]

Carrying into effect. Sec. 14. It shall be the duty of the general assembly to provide for the carrying into effect of this article, and to provide for a general system of practice in all the courts of this state.

The grand jury. Sec. 15. The grand jury may consist of any number of members not less than five, nor more than fifteen, as the general assembly may by law provide, or the general assembly may provide for holding persons to answer for any criminal offense without the intervention of the grand jury.

[By proper legislative action (19 G. A., joint res. No. 12 and 20 G. A., joint resolution No. 13) the foregoing was submitted to the electors at the general election in 1884 as a proposed amendment to the constitution, and was by them adopted.]

ARTICLE VI. — MILITIA.

Who constitute. Section 1. The militia of the state shall be composed of all able-bodied male citizens, between the ages of eighteen and forty-five years, except such as are or may hereafter be exempt by the laws of the United States, or of this state, and shall be armed, equipped and trained, as the general assembly may provide by law.

[By proper legislative action (11 G. A., chap. 98 and 12 G. A., joint res. No. XI) a proposed amendment striking the word "white" from this section, as it originally stood, was submitted to the electors at the general election in 1868 and adopted.]

Exemption. Sec. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do military duty in time of peace: provided that such person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

Officers. Sec. 3. All commissioned officers of the militia (staff officers excepted) shall be elected by the persons liable to perform military duty, and shall be commissioned by the governor.

ARTICLE VII. — STATE DEBTS.

Credit not to be loaned. Section 1. The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation; and the state shall never assume, or become responsible for the debts or liabilities of any individual, association, or corporation, unless incurred in time of war for the benefit of the state.

Limitation. Sec. 2. The state may contract debts to supply casual deficits or failures in revenues; or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly, or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

Losses to school funds. Sec. 3. All losses to the permanent school, or university fund of this state, which shall have been occasioned by the defalcation, mismanagement, or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state, in favor of the respective fund sustaining the loss, upon which not less than six per cent annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized by the second section of this article.

War debts. Sec. 4. In addition to the above limited power to contract debts, the state may contract debts to repel invasion,

suppress insurrection, or defend the state in war; but the money arising from the debts so contracted shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

Question of incurring debt submitted. Sec. 5. Except the debts hereinbefore specified in this article, no debt shall be hereafter contracted by, or on behalf of this state, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt, as it falls due and also to pay and discharge the principal of such debt, within twenty years from the time of the contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law, shall be applied only to the specific object therein stated, or to the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the state, for three months preceding the election at which it is submitted to the people.

Legislature may repeal. Sec. 6. The legislature may, at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time forbid the contracting of any further debt, or liability, under such law; but the tax imposed by such law, in proportion to the debt or liability which may have been contracted in pursuance thereof, shall remain in force and be irrepealable, and be annually collected, until the principal and interest are fully paid.

Tax imposed distinctly stated. Sec. 7. Every law which imposes, continues, or revives a tax, shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

ARTICLE VIII. — CORPORATIONS.

How created. Section 1. No corporation shall be created by special laws; but the general assembly shall provide by general laws,

for the organization of all corporations hereafter to be created, except as hereinafter provided.

Property taxable. Sec. 2. The property of all corporations for pecuniary profit shall be subject to taxation the same as that of individuals.

State not to be a stockholder. Sec. 3. The state shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the state.

Municipal corporation. Sec. 4. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

Act creating banking associations. Sec. 5. No act of the general assembly, authorizing or creating corporations or associations with banking powers, nor amendments thereto, shall take effect, or in any manner be in force, until the same shall have been submitted, separately, to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

State bank. Sec. 6. Subject to the provisions of the foregoing section, the general assembly may also provide for the establishment of a state bank with branches.

Specie basis. Sec. 7. If a state bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each other's liabilities upon all notes, bills and other issues intended for circulation as money.

General banking law. Sec. 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of state, of all bills, or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the state treasurer, in United States stocks, or in interest-paying stocks of states in good credit and standing, to be rated at ten per cent below their average value in the city of New York, for the thirty days

next preceding their deposit; and in case of a depreciation of any portion of such stocks, to the amount of ten per cent on the dollar, the bank or banks owning said stock shall be required to make up said deficiency by depositing additional stocks; and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer, and to whom.

Stockholders responsible. Sec. 9. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities accruing while he or she remains such stockholder.

Bill-holders preferred. Sec. 10. In case of the insolvency of any banking institution, the bill-holders shall have a preference over its other creditors.

Suspension of specie payments. Sec. 11. The suspension of specie payments by banking institutions shall never be permitted or sanctioned.

Amendment or repeal of charters; exclusive privileges. Sec. 12. Subject to the provisions of this article, the general assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities, by a vote of two-thirds of each branch of the general assembly; and no exclusive privileges, except as in this article provided, shall ever be granted.

ARTICLE IX. — EDUCATION AND SCHOOL LANDS.

1. — EDUCATION.

Board of education. Section 1. The educational interest of the state, including common schools and other educational institutions, shall be under the management of a board of education, which shall consist of the lieutenant-governor, who shall be the presiding officer of the board, and have the casting vote in case of a tie, and one member elected from each judicial district in the state.

Who eligible. Sec. 2. No person shall be eligible as a member of said board who shall not have attained the age of twenty-five years, and shall have been one year a citizen of the state.

How elected. Sec. 3. One member of said board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years, and until his successor is elected and qualified. After the first election under this constitution, the board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years; and one-half of the board shall be chosen every two years thereafter.

First session. Sec. 4. The first session of the board of education shall be held at the seat of government, on the first Monday of December, after their election; after which the general assembly may fix the time and place of meeting.

Limited. Sec. 5. The session of the board shall be limited to twenty days, and but one session shall be held in any one year, except upon extraordinary occasions, when, upon the recommendation of two-thirds of the board, the governor may order a special session.

Secretary. Sec. 6. The board of education shall appoint a secretary, who shall be the executive officer of the board, and perform such duties as may be imposed upon him by the board, and the laws of the state. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the general assembly.

Rules and regulations. Sec. 7. All rules and regulations made by the board shall be published and distributed to the several counties, townships, and school districts, as may be provided for by the board, and when so made, published, and distributed, they shall have the force and effect of law.

Power to make. Sec. 8. The board of education shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools, and other educational institutions, that are instituted, to receive aid from the school or university fund of this state; but all acts, rules, and regulations of said board may be altered, amended, or repealed, by the general assembly; and when so altered,

amended, or repealed, they shall not be re-enacted by the board of education.

Governor ex-officio a member. Sec. 9. The governor of the state shall be ex-officio, a member of said board.

Expenses. Sec. 10. The board shall have no power to levy taxes, or make appropriations of money. Their contingent expenses shall be provided for by the general assembly.

State university. Sec. 11. The state university shall be established at one place without branches at any other place, and the university fund shall be applied to that institution, and no other.

Common schools. Sec. 12. The board of education shall provide for the education of all the youths of the state, through a system of common schools, and such schools shall be organized and kept in each school district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school, as aforesaid, may be deprived of their portion of the school fund.

Compensation. Sec. 13. The members of the board of education shall each receive the same per diem during the term of their session, and mileage going to and returning therefrom, as members of the general assembly.

Quorum; style of acts. Sec. 14. A majority of the board shall constitute a quorum for the transaction of business; but no rule, regulation, or law, for the government of common schools or other educational institutions shall pass without the concurrence of a majority of all the members of the board, which shall be expressed by the yeas and nays on the final passage. The style of all acts of the board shall be, "Be it enacted by the board of education of the state of Iowa."

Board may be abolished. Sec. 15. At any time after the year one thousand eight hundred and sixty-three, the general assembly shall have power to abolish or reorganize said board of education, and provide for the educational interest of the state in any other manner that to them shall seem best and proper.

[The board of education was abolished by 10th G. A., chap. 52, Sec. 1.]

2. — SCHOOL FUNDS AND SCHOOL LANDS.

Under control of the general assembly. Section 1. The educational and school fund and lands shall be under the control and management of the general assembly of this state.

Permanent fund. Sec. 2. The university lands, and the proceeds thereof, and all moneys belonging to said fund shall be a permanent fund for the sole use of the state university. The interest arising from the same shall be annually appropriated for the support and benefit of said university.

Lands appropriated. Sec. 3. The general assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this state, for the support of schools, which may have been or shall hereafter be sold, or disposed of, and the five hundred thousand acres of land granted to the new states, under an act of Congress, distributing the proceeds of the public lands among the several states of the Union, approved in the year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent as has been or may hereafter be granted by Congress, on the sale of lands in this state, shall be, and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the general assembly may provide, shall be inviolably appropriated to the support of common schools throughout the state.

Fines, etc., how appropriated. Sec. 4. The money which may have been or shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied in the several counties in which such money is paid, or fine collected, among the several school districts of said counties, in proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the board of education shall from time to time provide.

[There are statutory provisions on this subject.]

Proceeds of lands. Sec. 5. The general assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may hereafter be reserved, or granted by the United States, or any person or persons to this state, for the use of the university, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be, and remain, a permanent fund, the interest of which shall be applied to the support of said university, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the general assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

Agents of school funds. Sec. 6. The financial agents of the school funds shall be the same that, by law, receive and control the state and county revenue, for other civil purposes, under such regulations as may be provided by law.

Distribution. Sec. 7. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the ages of five and twenty-one years, in such manner as may be provided by the general assembly.

ARTICLE X. — AMENDMENTS TO THE CONSTITUTION.

How proposed; submission. Section 1. Any amendment or amendments to this constitution may be proposed in either house of the general assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice; and if, in the general assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people in such manner, and at such time as the general assembly shall

provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the general assembly, voting thereon, such amendment or amendments shall become a part of the constitution of this state.

More than one. Sec. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

Convention. Sec. 3. At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year thereafter, and also at such times as the general assembly may, by law, provide, the question, "Shall there be a convention to revise the constitution, and amend the same?" shall be decided by the electors qualified to vote for members of the general assembly; and in case a majority of the electors so qualified, voting at such election for and against such proposition, shall decide in favor of a convention for such purpose, the general assembly, at its next session, shall provide by law for the election of delegates to such convention.

ARTICLE XI. — MISCELLANEOUS.

Jurisdiction of justice of the peace. Section 1. The jurisdiction of justices of the peace shall extend to all civil cases (except cases in chancery, and cases where the question of title to real estate may arise), where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding three hundred dollars.

Counties. Sec. 2. No new county shall be hereafter created containing less than four hundred and thirty-two square miles; nor shall the territory of any organized county be reduced below that area; except the county of Worth, and the counties west of it along the northern boundary of this state, may be organized without additional territory.

Indebtedness of political or municipal corporations. Sec. 3. No county or other political or municipal corporation shall be allowed to become indebted in any manner, or for any purpose, to an amount in the aggregate, exceeding five per centum on the value of the taxable

property within such county or corporation — to be ascertained by the last state and county tax lists, previous to the incurring of such indebtedness.

Boundaries. Sec. 4. The boundaries of the state may be enlarged, with the consent of Congress and the general assembly.

Oath of office. Sec. 5. Every person elected or appointed to any office, shall, before entering upon the duties thereof, take an oath or affirmation to support the constitution of the United States, and of this state, and also an oath of office.

How vacancies filled. Sec. 6. In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office, shall hold until the next general election, and until their successors are elected and qualified.

Land grants located. Sec. 7. The general assembly shall not locate any of the public lands which have been, or may be granted by Congress to this state, and the location of which may be given to the general assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant so exempted, shall not exceed three hundred and twenty acres.

Seat of government; state university. Sec. 8. The seat of government is hereby permanently established, as now fixed by law, at the city of Des Moines, in the county of Polk; and the state university at Iowa City, in the county of Johnson.

ARTICLE XII. — SCHEDULE.

Supreme law. Section 1. This constitution shall be the supreme law of the state, and any law inconsistent therewith, shall be void. The general assembly shall pass all laws necessary to carry this constitution into effect.

Laws in force. Sec. 2. All laws now in force, and not inconsistent with this constitution, shall remain in force until they shall expire or be repealed.

Proceedings not affected. Sec. 3. All indictments, prosecutions, suits, pleas, complaints, process, and other proceedings pending in any of

the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, certiorari, and injunctions, shall be carried on in the several courts, in the same manner as now provided by law, and all offenses, misdemeanors, and crimes that may have been committed before the taking effect of this constitution, shall be subject to indictment, trial, and punishment, in the same manner as they would have been had not this constitution been made.

Fines inure to the state. Sec. 4. All fines, penalties, or forfeitures due, or to become due, or accruing to the state, or to any county therein, or to the school fund, shall inure to the state, county, or school fund, in the manner prescribed by law.

Bonds in force. Sec. 5. All bonds executed to the state, or to any officer in his official capacity, shall remain in force and inure to the use of those concerned.

First election for governor and lieutenant-governor. Sec. 6. The first election under this constitution shall be held on the second Tuesday in October, in the year one thousand eight hundred and fifty-seven, at which time the electors of the state shall elect the governor and lieutenant-governor. There shall also be elected at such election, the successors of such state senators as were elected at the August election, in the year one thousand eight hundred and fifty-four, and members of the house of representatives, who shall be elected in accordance with the act of apportionment, enacted at the session of the general assembly which commenced on the first Monday of December, one thousand eight hundred and fifty-six.

For secretary, auditor, etc. Sec. 7. The first election for secretary, auditor, and treasurer of state, attorney-general, district judges, members of the board of education, district attorneys, members of congress, and such state officers as shall be elected at the April election, in the year one thousand eight hundred and fifty-seven (except the superintendent of public instruction), and such county officers as were elected at the August election, in the year one thousand eight hundred and fifty-six, except prosecuting attorneys, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-eight: provided that the time for which any district judge or

other state or county officer elected at the April election in the year one thousand eight hundred and fifty-eight shall not extend beyond the time fixed for filling like offices at the October election, in the year one thousand eight hundred and fifty-eight.

For judges of supreme court. Sec. 8. The first election for judges of the supreme court, and such county officers as shall be elected at the August election, in the year one thousand eight hundred and fifty-seven, shall be held on the second Tuesday of October, in the year one thousand eight hundred and fifty-nine.

First session of general assembly. Sec. 9. The first regular session of the general assembly shall be held in the year one thousand eight hundred and fifty-eight, commencing on the second Monday of January of said year.

Senators. Sec. 10. Senators elected at the August election, in the year one thousand eight hundred and fifty-six, shall continue in office until the second Tuesday of October, in the year one thousand eight hundred and fifty-nine, at which time their successors shall be elected as may be prescribed by law.

Offices not vacated. Sec. 11. Every person elected by popular vote, by a vote of the general assembly, or who may hold office by executive appointment, which office is continued by this constitution, and every person who shall be so elected or appointed to any such office, before the taking effect of this constitution (except as in this constitution otherwise provided), shall continue in office until the term for which such person has been or may be elected or appointed shall expire; but no such person shall continue in office after the taking effect of this constitution, for a longer period than the term of such office, in this constitution prescribed.

Judicial districts. Sec. 12. The general assembly, at the first session under this constitution, shall district the state into eleven judicial districts, for district court purposes; and shall also provide for the apportionment of the members of the general assembly in accordance with the provisions of this constitution.

Submission of constitution. Sec. 13. This constitution shall be submitted to the electors of the state at the August election, in the

year one thousand eight hundred and fifty-seven, in the several election districts in this state. The ballots at such election shall be written or printed as follows: those in favor of the constitution, "new constitution — yes." Those against the constitution, "new constitution — no." The elections shall be conducted in the same manner as the general elections of the state, and the poll-books shall be returned and canvassed as provided in the twenty-fifth chapter of the code, and abstracts shall be forwarded to the secretary of state, which abstracts shall be canvassed in the manner provided for by the canvass of state officers. And if it shall appear that a majority of all the votes cast at such election for and against this constitution are in favor of the same, the governor shall immediately issue his proclamation stating that fact, and such constitution shall be the constitution of the state of Iowa, and shall take effect from and after the publication of said proclamation.

Proposition to strike out the word "white." Sec. 14. At the same election that this constitution is submitted to the people for its adoption or rejection, a proposition to amend the same by striking out the word "white," from the article on the "right of suffrage," shall be separately submitted to the electors of this state for adoption or rejection, in the manner following, viz.: a separate ballot may be given by every person having a right to vote at said election, to be deposited in a separate box. And those given for the adoption of such proposition shall have the words, "shall the word 'white' be stricken out of the article on the 'right of suffrage'? yes." And those given against the proposition shall have the words "shall the word 'white' be stricken out of the article on the 'right of suffrage'? no." And if at said election the number of ballots cast in favor of said proposition shall be equal to a majority of those cast for and against this constitution, then said word "white" shall be stricken from said article and be no part thereof.

Mills county. Sec. 15. Until otherwise directed by law, the county of Mills shall be in and a part of the sixth judicial district of this state.

Biennial elections. Sec. 16. The first general election after the adoption of this amendment shall be held on the Tuesday next after

the first Monday in November, in the year one thousand nine hundred and six, and general elections shall be held biennially thereafter. In the year one thousand nine hundred and six there shall be elected a governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state, attorney-general, two judges of the supreme court, the successors of the judges of the district court whose terms of office expire on December 31st, one thousand nine hundred and six, state senators who would otherwise be chosen in the year one thousand nine hundred and five, and members of the house of representatives. The terms of office of the judges of the supreme court which would otherwise expire on December 31st, in odd-numbered years, and all other elective state, county and township officers, whose terms of office would otherwise expire in January, in the year one thousand nine hundred and six, and members of the general assembly whose successors would otherwise be chosen at the general election in the year one thousand nine hundred and five, are hereby extended one year and until their successors are elected and qualified. The terms of offices of senators whose successors would otherwise be chosen in the year one thousand nine hundred and seven are hereby extended one year and until their successors are elected and qualified. The general assembly shall make such changes in the law governing the time of election and terms of office of all other elective officers as shall be necessary to make the time of their election and terms of office conform to this amendment, and shall provide which of the judges of the supreme court shall serve as chief justice. The general assembly shall meet in regular session on the second Monday in January, in the year one thousand nine hundred and six, and also on the second Monday in January, in the year one thousand nine hundred and seven, and biennially thereafter.

[By proper legislative action (29 G. A., joint res. No. 5 and 30 G. A., joint res. No. 1) a proposed amendment, adding the foregoing section number 16 to Article XII, was submitted to the electors at the general election in 1904, and adopted. Practically the same amendment was adopted by the people November 6, 1900, but the supreme court February 1, 1901, in the case of the State of Iowa ex rel. Marsh W. Bailey vs. S. W. Brookhart, respondent, appellant, held that the amendment, section 16, was not proposed and adopted as required by the constitution, and did not become a part thereof.]

Done in convention at Iowa City, this fifth day of March, in the

year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States of America, the eighty-first.

In testimony whereof, we have hereunto subscribed our names:

| | | |
|-------------------|------------------|-------------------------------------|
| TIMOTHY DAY, | A. H. MARVIN, | S. AYRES, |
| S. G. WINCHESTER, | J. H. EMERSON, | HARVEY J. SKIFF, |
| DAVID BUNKER, | R. L. B. CLARKE, | J. A. PARVIN, |
| D. P. PALMER, | JAMES A. YOUNG, | W. PENN CLARK, |
| GEO. W. ELLS, | D. H. SOLOMON, | JERE. HOLLINGSWORTH, |
| J. C. HALL, | M. W. ROBINSON, | WM. PATTERSON, |
| JOHN H. PETERS, | LEWIS TODHUNTER, | D. W. PRICE, |
| WM. H. WARREN, | JOHN EDWARDS, | ALPHEUS SCOTT, |
| H. W. GRAY, | J. C. TRAER, | GEORGE GILLASPY, |
| ROBT. GOWER, | JAMES F. WILSON, | EDWARD JOHNSTONE, |
| H. D. GIBSON, | AMOS HARRIS, | |
| THOMAS SEELEY, | JNO. T. CLARKE, | |
| Attest: | | FRANCIS SPRINGER, <i>President.</i> |

TH. J. SAUNDERS, *Secretary.*

E. N. BATES, *Assistant Secretary.*

SUMMARY OF AMENDMENTS TO THE CONSTITUTION.

By proper legislative action (11 G. A., chap. 98, and 12 G. A., joint res. No. XI), by vote of the people, November 3, 1868, and proclamation of the governor, December 8, 1868.

First — Strike the word “white” from section one of article two thereof.

Second — Strike the word “white” from section thirty-three of article three thereof.

Third — Strike the word “white” from section thirty-four of article three thereof.

Fourth — Strike the word “white” from section thirty-five of article three thereof.

Fifth — Strike the word “white” from section one of article six thereof.

By proper legislative action (17 G. A., joint res. No. 5, and 18 G. A.,

joint res. No. 6), by vote of the people, November 2, 1880, and certificate of the board of state canvassers, December 3, 1880.

Strike out the words "free white" from the third line of section four (4) of article three (3) of said constitution, relating to the legislative department.

By proper legislative action (18 G. A., joint res. No. 8, and 19 G. A., joint res. No. 8), by vote of the people, June 27, 1882, and certificate of the board of state canvassers, July 28, 1882.

Section 26. No person shall manufacture for sale, or sell, or keep for sale, as a beverage, any intoxicating liquors whatever, including ale, wine and beer. The general assembly shall by law prescribe regulations for the enforcement of the prohibition herein contained, and shall thereby provide suitable penalties for the violation of the provisions hereof.

[The supreme court, April 21, 1883, in the case of Koehler & Lange vs. Hill, reported in 60th Iowa, page 543, held that the amendment, section 26, as submitted to the electors did not become a part of the constitution.]

By proper legislative action (19 G. A., joint res. No. 12, and 20 G. A., joint res. No. 13), by vote of the people, November 4, 1884, and certificate of the board of state canvassers, December 10, 1884.

Amendment 1. The general election for state, district, county and township officers, shall be held on the Tuesday next after the first Monday in November.

Amendment 2. At any regular session of the general assembly, the state may be divided into the necessary judicial districts for district court purposes, or the said districts may be reorganized and the number of the districts and the judges of said courts increased or diminished; but no reorganization of the districts or diminution of the judges shall have the effect of removing a judge from office.

Amendment 3. The grand jury may consist of any number of members not less than five, nor more than fifteen, as the general assembly may by law provide, or the general assembly may provide for holding persons to answer for any criminal offense without the intervention of the grand jury.

Amendment 4. That section thirteen of article five of the constitution be stricken therefrom, and the following adopted as such section:

Section 13. The qualified electors of each county shall, at the general election in the year one thousand eight hundred and eighty-six, and every two years thereafter, elect a county attorney, who shall be a resident of the county for which he is elected, and shall hold his office for two years, and until his successor shall have been elected and qualified.

By proper legislative action (29 G. A., joint res. No. 2 and 30 G. A., joint res. No. 2), by vote of the people November eighth, one thousand nine hundred and four, and certificate of the board of state canvassers, November twenty-ninth, one thousand nine hundred and four.

That sections thirty-four (34), thirty-five (35) and thirty-six (36) of article three (3) of the constitution of the state of Iowa, be repealed and the following be adopted in lieu thereof:

Section 34. The senate shall be composed of fifty members to be elected from the several senatorial districts, established by law and at the next session of the general assembly held following the taking of the state and national census, they shall be apportioned among the several counties or districts of the state, according to population as shown by the last preceding census.

Section 35. The house of representatives shall consist of not more than one hundred and eight members. The ratio of representation shall be determined by dividing the whole number of the population of the state as shown by the last preceding state or national census, by the whole number of counties then existing or organized, but each county shall constitute one representative district and be entitled to one representative, but each county having a population in excess of the ratio number, as herein provided of three-fifths or more of such ratio number shall be entitled to one additional representative, but said addition shall extend only to the nine counties having the greatest population.

Section 36. The general assembly shall, at the first regular session held following the adoption of this amendment, and at each succeeding regular session held next after the taking of such census, fix the ratio of representation, and apportion the additional representatives, as herein before required.

By proper legislative action (29 G. A., joint res. No. 5, and 30 G. A., joint res. No. 1), by vote of the people November eighth, one thousand

nine hundred and four, and certificate of the board of state canvassers, November twenty-ninth, one thousand nine hundred and four.

*Add as section sixteen, to article twelve of the constitution, the following :

Sec. 16. The first general election after the adoption of this amendment shall be held on the Tuesday next after the first Monday in November in the year one thousand nine hundred and six, and general elections shall be held biennially thereafter. In the year one thousand nine hundred and six there shall be elected a governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state, attorney-general, two judges of the supreme court, the successors of the judges of the district court whose terms of office expire on December 31st, one thousand nine hundred and six, state senators who would otherwise be chosen in the year one thousand nine hundred and five, and members of the house of representatives. The terms of office of the judges of the supreme court which would otherwise expire on December 31st, in odd-numbered years, and all other elective state, county and township officers whose terms of office would otherwise expire in January, in the year one thousand nine hundred and six, and members of the general assembly whose successors would otherwise be chosen at the general election in the year one thousand nine hundred and five, are hereby extended one year and until their successors are elected and qualified. The terms of office of senators whose successors would otherwise be chosen in the year one thousand nine hundred and seven are hereby extended one year and until their successors are elected and qualified. The general assembly shall make such changes in the law governing the time of election and terms of office of all other elective officers as shall be necessary to make the time of their election and terms of office conform to this amendment, and shall provide which of the judges of the supreme court shall serve as chief justice. The general assembly shall meet in regular session on the second Monday in January, in the year one thousand nine hundred and six,

* Practically the same amendment was adopted by the people November 6, 1900, but the supreme court, February 1, 1901, in the case of the State of Iowa ex rel. Marsh W. Bailey vs. S. W. Brookhart, respondent, appellant, held that the amendment, section 16, was not proposed and adopted as required by the constitution, and did not become a part thereof.

and also on the second Monday in January in the year one thousand nine hundred and seven, and biennially thereafter.

By proper legislative action (31 G. A., joint res. No. 1 and 32 G. A. joint res. No. 2), by vote of the people November third, one thousand nine hundred and eight, and certificate of the state board of canvassers, November twenty-third, one thousand nine hundred and eight.

Add to section eighteen of article one of the constitution, the following:

The general assembly, however, may pass laws permitting the owners of lands to construct drains, ditches and levees for agricultural, sanitary or mining purposes across the lands of others, and provide for the organization of drainage districts, vest the proper authorities with power to construct and maintain levees, drains and ditches and to keep in repair all drains, ditches and levees heretofore constructed under the laws of the state, by special assessments upon the property benefited thereby. The general assembly may provide by law for the condemnation of such real estate as shall be necessary for the construction and maintenance of such drains, ditches and levees, and prescribe the method of making such condemnation.

THE AMENDMENT OF 1916.

Repeal section 7, article II and enact in lieu thereof the following:

Sec. 7. The general election for state, district, county and township officers in the year 1916 shall be held in the same month and on the same day as that fixed by the laws of the United States for the election of presidential electors, or of president and vice-president of the United States; and thereafter such election shall be held at such time as the general assembly may by law provide.

NOTE.—This amendment was proposed by the General Assembly of 1913; re-adopted by the General Assembly of 1915, and ratified on November 7, 1916.

INDEX

- Accounts and Finance, Superintendent of, 136.
 Accused persons, rights of, 37, 175, 176.
 Acts, contents of, 184.
 Adair County, 147.
 Adjutant General, 81.
 Administration, 89.
 Administrative officers, table of, 96-105.
 Agricultural College Grant, 153.
 Agricultural education, 158-159.
 Agriculture, State Board of, data relative to, 103.
 Agriculture and Mechanic Arts, State College of, 92.
 Algonquin Indians, tribes of, 8.
 Aliens, rights of, 40, 41, 177.
 Alleghanies, 16.
 Alleys, locating of, 55, 184.
 Amendments, method of making, 201-202; summary of, 208-212.
 Ames, State College at, 92; reference to, 158-159.
 Anamosa, Reformatories at, 91.
 Andrews, George T., 152.
 Animal Health, Commission of, 87; data relative to, 102.
 Appeal, right of, 38.
 Appointments, power of making, 80-81.
 Apportionment of legislators, 185, 187.
 Appropriations, restriction of, 55; Committee on, 69; reference to, 183.
 Arbitration, boards of, 163.
 Archæology, problem in, 7.
 Assembly, right of, 40, 177.
 Assessment, inequalities in, 128, 147; method of, 145-146; equalization of, 148.
 Assessor, 127; compensation of, 128; unequal assessments by, 128; reference to, 133; assessment by, 147; difficulty of work of, 145-146.
 Attainder, prohibition of bills of, 40, 177.
 Attorney-General, prosecution of officers by, 81; functions of, 114; reference to, 192.
 Auditor (Municipal), 133.
 Auditor of State, powers and duties of, 85; member of Executive Council, 86; reference to, 148, 190.
 Australian ballot system, 46.
 Ayres, S., 208.
 Bail, right of, 38, 176; prohibition of excessive, 39, 176.
 Bailiffs, 123.
 Ballots, provisions relative to, 46.
 Banking, supervision of, 85.
 Banks, choice of, as depositories, 85, 86; provisions of Constitution relative to, 196, 197.
 Bates, E. N., 208.
 Bees, Inspector of, data relative to, 97.
 Belmont (Wisconsin), capital of Territory at, 20.
 Berry, Jesse, 152.
 Bicameral system, 62, 71.
 Biennial elections, provision for, 206, 207.
 Big Sioux River, 174.
 Bill of Rights (1689), 35.
 Bill of Rights in Constitution, provisions of, 36-42, 174-178.
 Bills, introduction and passage of, 57, 58, 181, 182; approval and veto of, 58, 80.
 Binder, State, 87; data relative to, 99.
 Births, record of, 122.
 Black Hawk, 18.
 Black Hawk County, 63.
 Black Hawk Purchase, 9.
 Black Hawk War, 8; cause of, 17.
 Blind, College for, 91, 93.
 Board of Control of State Institutions, 81; powers and duties of, 90-91; institutions under management of, 91.
 Boards, data relative to, 96-105; temporary, 106. (See also special subjects desired.)
 Boats, Inspectors of Passenger, 87; data relative to, 97.
 Bonds, 204.
 Boundaries of Iowa, 173, 174.
 Bounties, 119.
 Bridges, building of, 119.
 Brindley, John E., statement by, 147.
 British America, 3.
 Buffalo, 9.
 Buffum, Hugh S., statement by, 152.
 Building and loan companies, supervision of, 85.
 Bunker, David, 208.
 Burgess, John W., 33, 38.
 Burlington, 9; capital of Territory at, 20; commission plan of government in, 135.
 Calhoun County, 147.
 California, stampede to, 11.
 Calvin, Samuel, statement by, 2, 3.
 Canada, cheap lands in, 11; loss of, by France, 16.

- Candidates, methods of nominating, 48, 49; number of signers required of, 49, 50.
- Capital, location of, 203.
- Capitol, Commission, State, 106.
- Caucus, nominations by, 49.
- Cedar Falls, State Teachers' College at, 92, 157, 158.
- Cedar Rapids, 111; commission plan of government in, 135.
- Census, provision for, 57, 185.
- Chambers, John, recommendations of, relative to statehood, 29.
- Charities, public, 164-165.
- Cherokee, State Hospital for Insane at, 91.
- Chief Justice of Supreme Court, 112, 113.
- China, search for route to, 13.
- Chippewa Indians, 8.
- Cities, incorporation of, 55, 184; limitation upon debts of, 56; Superior Courts in, 111, 134; government of, 129-140; classes of, 131; officers of, 132-134.
- Citizenship, difference between suffrage and, 43-44; definition of, 43; limitation of State relative to, 44.
- City Attorney, 134.
- City Clerk, 134.
- City Engineer, 133.
- City Superintendent, 155.
- Civil cases, trial of, 109, 110.
- Civil Rights, enumeration of, in Constitution, 35-42, 174-178.
- Civil townships, organization of, 126, 127.
- Civil War, 11, 47.
- Claim Clubs, 24.
- Clarinda, State Hospital for Insane at, 91.
- Clark County, 147.
- Clark, W. Penn., 208.
- Clarke, John T., 208.
- Clarke, R. L. B., 208.
- Clerk (Municipal), 134.
- Clerk of District Court, powers and duties of, 122; compensation of, 122.
- Clerk of Supreme Court, 113.
- Climate, character of, in Iowa, 5.
- Clinton County, 63.
- Code Commission, 106.
- Collection of taxes, 146, 149.
- Columbus, discovery by, 6.
- Commerce Counsel, creation of officer of, 93-94; powers and duties of, 93-94.
- Commission of Animal Health, 87; data relative to, 102.
- Commission of Pharmacy, 87; data relative to, 102.
- Commission Plan of City Government, adoption of, 135; outline of, 136-137; advantage of, 137, 138.
- Commissioner of Labor, 81.
- Commissioner (City), primary election for, 135, 136; election of, 136; powers of, 136; responsibility and recall of, 136, 137; limitation of powers of, 137; compensation of, 137.
- Commissions, data relative to, 100-105; temporary, 106.
- Committees, in House of Representatives, 68, 69; in Senate, 73-74.
- Compensation for services, 56.
- Congress, power of, over Territorial laws, 27; Nicollet boundaries prescribed by, 30; Iowa admitted by, 31; revenue bills in, 70; aid to education by, 152, 153.
- Congressional Districts, 55, 56.
- Congressional townships, 116, 126.
- Congressmen, first election of, 204.
- Connecticut, 10.
- Constables, 81, 127, 170.
- Constitution, important parts of, 33; preamble of, 33; power to change, 141; method of amending, in United States, 142.
- Constitution of 1844, drafting of, 29; rejection of, by people, 30.
- Constitution of 1846, adoption of, 31; revision of, 31, 32; amending clause in, 141.
- Constitution of Iowa (present), adoption of, 32; permanence of, 32, 33; preamble to, 33; amendments to, 39, 40, 45, 115; separation of powers in, 53; oath of Governor to support, 75; methods of amending, 141-143, 201-202; text of, 173; submission of to people, 205, 206; summary of amendments to, 208-212.
- Constitution of United States, rights asserted in, 35; definition of citizenship in, 43; oath of Governor to support, 75, 76.
- Constitutional Convention, methods of calling, 142, 143, 202.
- Constitutional Convention of 1844, birthplace of members of, 10; meeting of, 29.
- Constitutional Convention of 1846, 30.
- Constitutional Convention of 1857, 32.
- Contracts, protection of, 40, 177.
- Conventions (political), nominations by, 48.
- Corn, annual crop of, 4.
- Coroner, *see* County Coroner.
- Corporation taxes, 146.
- Corporations, limitations of legislature relative to, 56; regulation of, 161, 162; provisions of Constitution relative to, 195-197.
- Correction of criminals, methods of, 165, 166.
- Council (Municipal), election of, 132, 137; composition of, 132; compensation of members of, 132, 137; veto of acts of, 133; compensation of mayor fixed by, 133; appointments by, 133; primary election for members of, 135, 136; departments managed by members of, 136; limitation of

- power of, 136; taxes levied by, 146; equalization of assessments by, 148; reference to, 164.
- Council (Territorial), number of members of, 27.
- Council Bluffs, School for Deaf at, 93; reference to, 111.
- Counties, change in area or boundaries of, 55, 184; prohibition of division of, 55; limitation upon debts of, 56, 202, 203; apportionment of Representatives to, 62, 63; area of, 116, 117, 202.
- County, sittings of District Court in, 110; government of, 116-125; election of Supervisors in, 117; management of affairs of, 118, 119.
- County Attorney, 81, 170, 192, 193; functions of, 113, 114, 119.
- County Auditor, nomination papers filed with, 49, 50; powers and duties of, 119, 120; compensation of, 120; reference to, 148.
- County Clerk, powers and duties of, 122; compensation of, 122.
- County Coroner, powers and duties of, 123, 124; compensation of, 124.
- County fairs, 119.
- County High School, 156.
- County officers, number of signers necessary for nomination of, 49, 50; prosecution of, 81, 82; list of, 117; powers and duties of, 117-124; resignation of, 120; reference to, 204.
- County Recorder, powers and duties of, 121; compensation of, 121.
- County seats, location of, 55; changing of, 184.
- County Sheriff, powers and duties of, 122, 123; compensations of, 123; reference to, 170.
- County Superintendent, powers and duties of, 124, 155; compensation of, 124; reference to, 154; institute conducted by, 157.
- County Surveyor, office of, abolished, 125.
- County-Township System, 126.
- County Treasurer, powers and duties of, 120, 121; compensation of, 121; reference to, 149.
- Coueurs de bois*, 15.
- Courts, classes of, 109, 113, 190.
- Credit of the State, prohibition upon loaning of, 56.
- Crime, punishment and correction of, 165-166.
- Criminal cases, trial of, 109, 110.
- Criminals, suffrage denied, 44, 179.
- Curators of State Historical Society of Iowa, data relative to, 99.
- Custodian of Public Buildings and Property, 87; data relative to, 96.
- Dairy and Food Commissioner, reference to, 81, 85; data relative to, 96.
- Danes, immigration of, to Iowa, 11.
- Davenport, 9; Soldiers' Orphans' Home at, 91.
- Davis, Jefferson, miners driven from Dubuque by, 23.
- Day, Timothy, 208.
- Deaf, School for, 93.
- Deaths, record of, 122.
- Debt, imprisonment for, prohibited, 40, 177.
- Debts, limitations upon, by cities or counties, 56; State, provisions of Constitution relative to, 195.
- Declaration of Independence, 35, 142.
- Deeds, record of, 121.
- Democrats, objection of, to revision of Constitution, 31.
- Dental Examiners, Board of, 87; data relative to, 99.
- Departments of government, 53, 179.
- Depositories, choice of, 85, 86.
- Deputy Marshals, 133, 170.
- Des Moines, derivation of name, 14; sessions of legislature at, 54; reference to, 86; adoption of commission plan in, 135; capital located at, 203.
- Des Moines County, 128, 147.
- Des Moines Plan of City Government, adoption of, 135; outline of, 135, 137; advantages of, 137, 138.
- Des Moines River, 173, 174.
- De Soto, Fernando, discovery of Mississippi by, 13.
- Distribution of powers, 179.
- District Attorney, 204.
- District Court, right of appeal to, 38; officers removed by, 82; appeals to, 111; jurisdiction of, 111, 191; reference to, 110, 130, 170; execution of judgments of, 123; composition of, 191.
- District Judges, number of, 110; reference to, 130, 204; election of, 191; salary of, 191, 192.
- District schools, supervision of, 153, 154; inefficiency in, 154.
- Ditches, amendment to Constitution relative to, 39, 40, 177.
- Divorces, granting of, by legislature prohibited, 55, 184.
- Dolliver, Jonathan, election of successor to, 60.
- Dragoons, First United States, expedition of, 18, 19.
- Drainage districts, 119.
- Drains, amendment relative to, 177.
- Dubuque County, 63.
- Dubuque, Julien, settlement by, 9; visit of Pike to, 18.

- Dubuque, lead mines in vicinity of, 9; compact of miners at, 22, 23; miners driven from, 23.
- Due process of law, 37, 175.
- Duelling, prohibition of, 36, 175.
- Du Luth, explorations by, 15.
- Dutch, first settlement by, 11.
- Economic legislation, 161-171.
- Education, Board of (old), 197-199, 204.
- Education, provisions for, 151-160, 197-199; aid to, by Congress, 152-153; amount of money expended for, 153; purpose of, 156, 157; agencies for purpose of, 159.
- Education, School of, 158.
- Education, State Board of (present), 81, 92; composition, powers, and duties of, 92;
- Educational Commission, 106, 156.
- Educational Examiners, Board of, 87, 124, 154; data relative to, 99.
- Edwards, John, 208.
- Eldora, Industrial School at, 91.
- Election, definition of, 43.
- Election officers, 46.
- Election precincts, 46.
- Elections, regulations relative to, 44, 45, 46; duties of Auditor relative to, 120; reference to, 127; method of conducting, 179; time of holding, 179; provisions for biennial, 206-207.
- Elector at Large, nomination of, 50.
- Electors, privileges of, 47, 48, 178, 179; qualifications of, 178; classes denied privileges of, 178, 179.
- Ells, George W., 208.
- Emerson, J. H., 208.
- Eminent domain, right of, 39, 40, 177.
- Employers' Liability Commission, purpose of, 106.
- England, 13, 60; territory gained by, 16; territory ceded to United States by, 16.
- English, 11.
- Equalization of assessment, 146-148.
- Eskimoid man, 7.
- Europe, municipalities in, 130.
- Executive Council, compensation of members of, 78, 85, 86, 87; removal power of, 81; approval of acts of Treasurer by, 85; composition of, 86; creation of, 86; powers and duties of, 86, 87; equalization of assessments by, 148.
- Executive Department, article in Constitution relative to, 187-190.
- Executive Journal*, 33.
- Executive officers, 84.
- Exemptions from taxation, 148.
- Ex post facto* laws, prohibition of, 40, 177.
- Express companies, regulation of rates of, 94.
- Farmers, agricultural education of, 158-159.
- Farms, value and products of, 3, 4.
- Feeble-minded Children, Institution for, 91.
- Finance Committee of Board of Education, 92.
- Fines, prohibition of, excessive, 39, 176; disposition of proceeds of, 200, 204.
- Fire, protection of property from, 166, 167.
- Fire Marshal, State, data relative to, 97; powers and duties of, 166, 167.
- Fish and Game Warden, 87, 168; data relative to, 96.
- Five Hundred Thousand Acre Grant, 152, 153.
- Five Section Grant, 153.
- Floyd, Sergeant Charles, death of, 17; perpetuation of memory of, 17, 18.
- Floyd County, 18.
- Floyd River, 18.
- Food and Dairy Commissioner, 81, 87; data relative to, 96.
- Fort Des Moines, 19.
- Fort Dodge Claim Club, extract from records of, 24.
- Fort Madison, Penitentiary at, 91.
- Fox Indians, remnant of, 8.
- France, 13; confirmation of title of, to Mississippi Valley, 15, 16; territory lost by, 16; purchase of Louisiana from, 16.
- French, basis of claim of, to Louisiana, 15.
- Fugitive Slave Law, 37.
- Functions of government, 94, 95.
- Galveston (Texas), commission plan of government at, 135.
- Game Warden, Fish and, 87, 168; data relative to, 96.
- General Assembly, composition of, 53; sessions of, 53, 54; adjournment of, 54; scope of powers of, 54, 55; restrictions on powers of, 55, 57; provision for census by, 57; passage of bills by, 57, 58; rules of procedure in, 59; journal of proceedings of, 60; publication of laws of, 60; apportionment of representation by, 63; votes for Governor counted by, 75; tie in election of Governor decided by, 75; resignation of Governor sent to, 77; salary of Governor fixed by, 78; recommendations of Governor to, 78, 79; power of Governor to convene and adjourn, 79, 80, 188, 189; veto of bills passed by, 80; appointive power given to Governor by, 80, 81; reports required by, 83; filling of vacancies in, 83; preservation of laws and resolutions of, 84; officers chosen by, 87, 96, 98; power of, relative to local government, 116, 141; municipal powers granted by, 129; part of, in amending Constitution, 142, 143; taxes levied by,

- 146; problems confronting, 161; article of Constitution relative to, 179-187; first session of, 205.
- General property tax, 146.
- Geological Board, data relative to, 103.
- Germans, immigration of, to Iowa, 11.
- Germany, 10.
- Gibson, H. D., 208.
- Gillaspy, George, 208.
- Glaciers, work of, 2, 3.
- Glenwood. Institution for Feeble-minded Children at, 91.
- Government, functions of, 94-95; purpose of, 174; location of seat of, 203.
- Governor (State), power of, to convene and adjourn legislature, 54, 79, 80; approval and veto of bills by, 56, 182; writs of election issued by, 66; title of, 75; election and term of office of, 73, 187-189; oath of office of, 75, 76; law of succession to, 76, 77; resignation or removal of, 77; qualifications of, 77, 78, 188; compensation of, 78; powers and functions of, 80, 84, 188, 190; recommendations to legislature by, 78, 79; veto power of, 80; appointing power of, 80, 81; removal power of, 81; military power of, 82, 170; pardoning power of, 83; social duties of, 84; relation of, to executive officers, 84; reports of Auditor to, 85; member of Executive Council, 86; officers appointed by, 93, 105; first election of, 204.
- Governor (Territorial), powers and duties of, 26, 27; limitations on power of, 28.
- Gower, Robert, 208.
- Grand jury, 115, 193; trial by, 176.
- Gray, H. W., 208.
- Great Lakes, 13.
- Grimes, James W., election of, as Governor, 32.
- Grinnell, 111.
- Grosseilliers, exploration by, 14.
- Habeas Corpus, right of, guaranteed, 38, 176.
- Hall, J. C., 208.
- Hall of Archives, 85.
- Harbor Master, 133.
- Harris, Amos, 208.
- Harrison, William Henry, treaty made by, 17.
- Health, Board of, 81, 163, 164; data relative to, 100.
- Health, protection of public, 163, 164.
- Health Physician, 133.
- Hennepin, Louis, exploration of Mississippi by, 15.
- High schools, normal courses in, 157.
- Highway Commission, State, data relative to, 104; reference to, 168.
- Highways, laws relative to, 55; regulation of, 119; improvement of, 167-168; provision for, 184.
- Historical Society, Board of Curators of State, 87; data relative to, 99.
- Historical Society, State activities of, 158.
- Hollingsworth, Jeremiah, 208.
- Horticultural Society, State, 107.
- Hotel Inspector, data relative to, 96.
- House of Commons, special power of, 69, 70.
- House of Representatives (State), 53; number of members of, 62; basis of representation in, 62, 63; vacancies in, 65, 66, 181; organization and officers of, 68; committees in, 68, 69; special powers of, 69, 70; powers of, 180, 181; quorum of, 181; adjournment of, 181.
- House of Representatives (Territorial), number of members of, 27.
- Huguenots, 11.
- Idiots, suffrage denied, 44, 179.
- Illinois, Indian war in, 8; reference to, 10.
- Illinois Indians, 8, 14.
- Illinois River, 14.
- Immigrants, desire of, to enter Indian country, 8; rush of, to Iowa, 11.
- Impeachment, 182, 183.
- Incorporation of towns, method of, 130.
- Independence, State Hospital for Insane at, 91.
- Independent districts, 153, 154; powers of, 154-155.
- Indeterminate sentence, 166.
- Indiana, 10.
- Indiana Territory, Iowa country under jurisdiction of, 17.
- Indians, Mound Builders displaced by, 7; tribes of, in Iowa, 8; conflicts with, 8; land cessions by, 8, 9; dealings of Dubuque with, 9; reference to, 14; treaty with, 17; councils of Dragoons with, 19; prohibition of settlement on lands of, 23.
- Indictment, right of, guaranteed, 176.
- Industrial School for Boys, 91.
- Industrial School for Girls, 91.
- Inebriates, State Hospital for, 91.
- Inheritance taxes, 146.
- Initiative, operation of, 137.
- Insane, State Hospital for, 91.
- Insane persons, suffrage denied, 44, 179.
- Institute for teachers, 157.
- Insurance, supervision of, 85.
- Insurrection, methods of dealing with, 170.
- Interstate Commerce Commission, 94.
- Iowa, boundaries of, 1, 173, 174; physical features of, 1-3; work of glaciers in, 2, 3; soil of, 3; resources of, 3, 4; railroads of, 4; climate of, 5; character of population of, 6; Mound Builders in, 6, 7; Indian tribes in, 8; Indian conflicts in, 8; first white settler in, 9; permanent settlement of, 9, 10; early

- towns in, 9, 10; nativity of pioneers of, 10; growth of population of, 10, 11; rush of immigrants to, 11; ethnic elements in, 11, 12; romance of early history of, 13; landing of Marquette and Joliet in, 14; acquisition of, by United States, 17; early governments over, 18; expedition of Dragoons through, 18, 19; discovery of, 19; naming of, 19, 20; admission of, 20, 31; first Congressional survey in, 23; claim clubs in, 24; controversy over boundaries for, 29, 30; inauguration of State government in, 31; regulations relative to suffrage in, 45; adoption of Australian ballot in, 46; first school teachers in, 151, 152; land grants for education in, 152, 153; change in character of, 159; change in boundaries of, 203.
- Iowa, Territory of, establishment of, 20, 26; Organic Act of, 26, 27; position of Governor of, 26, 27; legislature of, 27; judiciary of, 27; first Governor of, 27, 28; amendments to Organic Act of, 28; public education in, 151.
- Iowa Academy of Sciences, 107.
- Iowa City, meeting of Constitutional Convention at, 29, 30, 32; State Sanatorium near, 91; State University at, 91, 203; early school at, 152; State Historical Society at, 158; reference to, 207.
- Iowa River, Indians on, 8; reference to, 14, 20.
- Ioway Indians, 8.
- Ireland, 10.
- Irish, immigration of, to Iowa, 11.
- Jefferson, Thomas, 16.
- Jennings, Berryman, 151.
- Johnson County, early school in, 152.
- Johnstone, Edward, 208.
- Joliet and Marquette, landing of, in Iowa, 14.
- Jones, F. E., 152.
- Journals of General Assembly, 60.
- Judicial Department, 109-115, 190-193.
- Judicial Districts, number of, 110; organization of, 192, 205.
- Jury, trial by, guaranteed, 37, 175.
- Justice Court, trial in, 38.
- Justice of Peace, jurisdiction and powers of, 109, 110, 202; reference to, 127.
- Justices of Supreme Court, 112, 113.
- Kentucky, 10.
- Keokuk, 9, 111; commission plan of government in, 135.
- Keokuk Reserve, 9.
- King John, 35.
- Knoxville, Hospital for Inebriates at, 91.
- Labor, Commissioner of, 81.
- Labor legislation, 162, 163.
- Labor Statistics, Bureau of, data relative to, 102.
- Labor unions, 162.
- Lake Superior, 14, 15.
- Land, cessions of, by Indians, 8, 9.
- Land grants, location of, 203.
- Lander, H. F., 23.
- Langworthy, J. L., 23.
- La Salle, explorations by, 15; Mississippi Valley claimed for France by, 16.
- Law, attitude of squatters toward, 23; due process of, 37, 175; interpretation of, 109.
- Law Examiners, Board of, data relative to, 100.
- Laws, uniformity of, 36, 175, 184; prohibition of local or special, 55, 184; publication of, 60, 84, 183; power to change, 141; style of, 179; taking effect of, 183, 184.
- Lea, Albert M., *Notes on Wisconsin Territory* by, 19, 20; naming of Iowa by, 19, 20; statement by, 24.
- Lee County, 19, 152.
- Legislative Assembly, composition of, 27; powers of, 27.
- Legislative department, article in Constitution relative to, 179, 187.
- Levy of taxes, 146.
- Lewis and Clark Expedition, 17, 18.
- Library Commission, 87; data relative to, 103.
- Library Trustees, Board of, data relative to, 100.
- Lieutenant-Governor, powers and duties of, 72, 73, 189, 190; election of, 75, 187, 188; Senate presided over by, 76; succession of, to governorship, 77; first election of, 204.
- Linn County, 63.
- Liquors, intoxicating, amendment relative to, 41, 42, 178; methods of regulating sale of, 160.
- Live stock, value of, 4.
- Loan and trust companies, supervision of, 85.
- Local government, status of, 116.
- Lotteries, prohibition of, 55, 184.
- Louisa County, landing of Marquette and Joliet in, 14.
- Louisiana, District of, Iowa as part of, 17.
- Louisiana, mounds in, 7; basis of French claim to, 15; naming of, 16; change in jurisdictions over, 16; purchase of, by United States, 16, 17.
- Louisiana, Territory of, Iowa country as part of, 18.
- Lucas, Robert, remonstrance against, 28; recommendations of, relative to statehood, 28, 29.
- Lucas Boundaries, 29.

- McClain, Emlin, statement by, 41.
 McPheters, James, 23.
 Magna Charta, 35.
 Maine, 10.
 Man, prehistoric, 6.
 Manufactures, value of annual product of, 4.
 Markets, Superintendent of, 133.
 Marquette and Joliet, landing of, in Iowa, 14.
 Marriage licenses, issuance of, 122.
 Marshall, 81, 133, 170.
 Marshalltown, Soldiers' Home at, 91.
 Martial law, effect of, 40.
 Marvin, A. H., 208.
 Massachusetts, 10.
 Mayflower Compact, 22.
 Mayor, 81, 170; election of, 131, 135; powers and duties of, 132, 133; appointive power of, 133; veto power of, 133; compensation of, 133; primary election for, 135, 136; department managed by, 136.
 Mechanic Arts, State College of Agriculture and, 92.
 Medical Examiners, Board of, data relative to, 100.
 Meskwaki Indians, 8.
 Message of Governor, 188.
 Michigan, Territory of, Iowa country attached to, 18; reference to, 151.
 Military, subordination of, 38, 176.
 Military power, 82.
 Militia, 160, 170; commander-in-chief of, 188; article in Constitution relative to, 193, 194.
 Mills County, 206.
 Mine Inspectors, 81; data relative to, 99.
 Mine Inspectors, State, Board of Examiners for, 87; data relative to, 99.
 Mineral products, annual output of, 4.
 Miners' Compact, 22, 23.
 Minnesota, 1, 3, 19, 153; Indians in, 8.
 Mississippi River, 1, 9, 174; exploration west of, 8; struggle for country west of, 13; discovery of, 13; Radisson and Grosseilliers on, 14; voyage of Marquette and Joliet down, 14, 15; exploration of, by Hennepin, 15; French flag unfurled at mouth of, 16; control of commerce of, 16; expedition of Pike to sources of, 18.
 Mississippi Valley, importance of, to world, 1; glaciers in, 3; Mound Builders in, 7; exploration of, by La Salle, 15; French title to, confirmed, 15, 16; marches of Dragoons through, 18.
 Missouri, 1; Indians in, 8; admission of, 18, 22; northern boundary of, 173, 174.
 Missouri, Territory of, Iowa country as part of, 18.
 Missouri Indians, 8.
 Missouri River, 1, 30, 174; exploration of, by Lewis and Clark, 17, 18.
 Mitchellville, Industrial School at, 91.
 Mobs, method of dealing with, 170.
 Moingona Indians, 14.
 Moneys and credits, concealing of, 147.
 Morals, legislation relative to, 168, 169.
 Mound Builders, mounds left by, 7; displacement of, 7.
 Mt. Pleasant Hospital for Female Inebriates, 91.
 Mt. Pleasant, State Hospital for Insane at, 91.
 Municipal Accounting, supervision of, 85.
 Municipal government, 129-140; failure of, 134.
 Municipal officers, 131, 134.
 Municipalities, source of powers of, 129; classification of, 131, 132, 134; incorporation of, 130, 131; powers of, 131; limit on debts of, 202, 203.
 Muscatine, strike at, 40.
 Napoleon (Iowa), 9.
 Napoleon Bonaparte, Louisiana sold by, 16.
 Natural resources, preservation of, 168.
 New Boston, 10.
 New Englanders, settlement of, in Iowa, 10.
 New Hampshire, 10.
 New Jersey, 10.
 New York, 10, 41.
 Nicollet, Jean, exploration of, 13, 14.
 Nicollet, Jean N., map made by, 174.
 Nicollet Boundaries, 30.
 Nomination, method of securing, 49, 51.
 Normal courses in high schools, 157.
 Normal School, State, 157.
 North Carolina, 10.
 Northwest Territory, Ordinance of, 41, 151.
 Norwegians, immigration of, to Iowa, 11.
 Oakdale, State Sanatorium at, 91.
 Oaths of office, 59, 75, 76, 203.
 Oelwein, 111.
Official Register, 85.
 Ohio, mounds in, 7.
 Ohio Valley, loss of, by France, 16.
 Oil Inspectors, 81, 87; data relative to, 97.
 Omaha Indians, 8.
 Optometry Examiners, Board of, 87; data relative to, 101.
 Ordinance of 1787, provision for education in, 151.
 Organic Act of Territory of Iowa, 26-28.
 Orleans, Territory of, 17.
 Osage Indians, 8.
 Oto Indians, 8.
 Ottaway Indians, 8.

- Palmer, D. P., 208.
 Pardoning power, 83, 189.
 Park Commissioners, 136.
 Parks and Public Property, Superintendent of, 136.
 Parole, Board of, 81, 83, 87; data relative to, 101.
 Parvin, J. A., 208.
 Patterson, William, 208.
 Pella, settlement of, 11.
 Penalties for crime and offenses, 165.
 Penitentiary at Ft. Madison, 91.
 Pennsylvania, 10.
 People, relation of, to government, 144, 170, 174; question of debt referred to, 195; submission of Constitution to, 205, 206; submission of amendment to, 206.
 Perry, 111.
 Personal security, guarantee of, 37.
 Persons, rights of, 36, 174; changing of names of, 55, 184.
 Peters, John H., 208.
 Petition, right of, 40, 177.
 Pharmacy, Commission of, 87; data relative to, 102.
 Physiography, importance of, 1.
 Pike, Zebulon Montgomery, expedition of, 18.
 Pioneers, preference of, for woodlands, 2; birthplaces of, 10.
 Police force, 81, 169, 170.
 Police Judge, 134.
 Political party, definition of, 48; machinery of, 48, 49; legalizing of, 51.
 Political power, location of, 174.
 Polk, James K., bill for admission of Iowa signed by, 31.
 Polk County, 63.
 Poll tax, 146.
 Polling places, location of, 119.
 Poor, care of, 119, 127.
 Population, growth of, 10, 11.
 Port Wardens, 133.
Posse comitatus, 170.
 Pottawattamie County, 63.
 Pottawattamie Indians, 8.
 Powers, distribution of, 179.
 Prairie du Chien, 23.
 Prairies, prominence of, in Iowa, 2.
 Preamble, significance of, 33; text of, 173.
 President of United States, Territorial officers appointed by, 27.
 President *pro tempore* of Senate, succession of, to governorship, 77.
 Press, freedom of, 37, 175.
 Price, D. W., 208.
 Primary Election, law relative to, 49-51; time and manner of holding, 50, 51.
 Printer, State, 87; data relative to, 104.
 Private institutions, State aid to, 107.
 Procedure, rules of, 59.
 Property, listing of, for taxation, 146; under-valuation of, 147.
 Prosecutors, public, 113; duty of, 114, 115.
 Public Affairs, Superintendent of, 136.
 Public Money, statement of receipts and expenditures of, 61, 182.
 Public Safety, Superintendent of, 136.
 Public squares, vacating of, 55, 184.
 Punishment, prohibition of unusual, 39, 176; kinds of, 165.
 Radisson, exploration by, 14.
 Railroad Commissioners, Board of, powers and duties of, 93; office supplementary to, 94; appointment of, 94.
 Railroads, miles of, in Iowa, 4; regulation of, 93, 95.
 Rate of taxation, 146, 147.
 Recall, operation of, in cities, 136, 137.
 Referendum, operation of, 137.
 Reformatories at Anamosa, 91.
 Registration of voters, 46.
 Religion, freedom of, 36, 174, 175.
 Removal, power of, 81.
 Rents, reservation of, 41, 178.
 Reporter of Supreme Court, 113.
 Representation, ratio of, 186, 187.
 Representative Districts, 55.
 Representatives, number of, 62; election of, 63, 180; qualifications of, 63, 65, 180; dis-qualifications of, 65, 183; compensation of, 66, 67, 183; privileges of, 67, 181; apportionment of, 185, 186; first election of, 204.
 Revenue, reports relative to, 85; amount of, annually, 86.
 Revenue bills, origin of, 70.
 Revolution, right of, 36.
 Rights, obtaining of, 35; guarantee of, in Constitution, 36-42, 174, 178; sources of, 42.
 Rights retained, 41, 178.
 Riots, methods of dealing with, 170.
 Road improvement districts, 119.
 Road tax, 146.
 Roads, location of, 55; repairing of, 127; improvement of, 167, 168; provision for, 184; vacating of, 184.
 Robinson, M. W., 208.
 Sac Indians, 6.
 Saint Anthony, Falls of, naming of, 15.
 St. Louis, Indian treaty at, 17; reference to, 18.
 Saline Land Grant, 153.
 Sanatorium for the Treatment of Tuberculosis, 90, 91.
 Saunders, Thomas J., 208.

- Schedule in Constitution, 203-208.
 School board, 153, 154.
 School fund, apportionment of, 85; control of, in counties, 119; reference to, 153; losses to, 194; provisions of Constitution relative to, 200, 201.
 School lands, 152, 153, 200, 201.
 School laws, need of reform in, 156.
 School system, 151, 160; lack of coördination in, 154.
 School townships, 153, 154.
 Schools, private, 151, 152; system of common, 153, 154, 199.
 Scoles, Samuel H., 23.
 Scotch-Irish, 11.
 Scotland, 10.
 Scott, Alpheus, 208.
 Scott County, 63.
 Seal of the State of Iowa, keeper of, 78, 190.
 Search and seizure, freedom from, 37, 175.
 Seat of Government, Commission to Locate, 106.
 Secretary of State, nomination papers filed with, 50, 51; reference to, 58, 190, 204; laws published by, 60; powers and duties of, 84, 85; member of Executive Council, 86.
 Security, guarantee of, 175.
 Seeley, Thomas, 208.
 Senate, 53; chief features of, 71; composition of, 71; contested elections in, 72; organization and officers of, 72, 73; vacancies in, 72, 181; procedure in, 73; committees in, 73, 74; special powers of, 74; appointments sanctioned by, 81; powers of, 180, 181; quorum of, 181; adjournments of, 181; president of, 189.
 Senatorial Districts, 55.
 Senators, number of, 71; election and term of, 71, 72, 180; qualifications of, 72, 180; compensation of, 72, 183; privileges of, 72, 181; classification of, 180, disqualifications of, 183; apportionment of, 185, 186; first election of, 204.
 Separation of powers, 53.
 Settlers, coming of, to Iowa, 9; nationality of, 11, 12.
 Shambaugh, Benjamin F., statement by, 23.
 Shenandoah, 111.
 Sheriff, *see* County Sheriff.
 Short ballot, advantage of, 137, 138.
 Sioux City, 17; commission plan of government in, 135.
 Sioux County, 128, 147.
 Sioux Indians, tribes of, 8.
 Sisseton Indians, 8.
 Sixteenth Section Grant, 152.
 Skiff, Harvey J., 208.
 Slavery, prohibition of, 41, 178.
 Slavs, immigration of, to Iowa, 11.
 Social legislation, 161-171.
 Soils, making of, 3.
 Soldiers, quartering of, prohibited, 38, 176; suffrage denied, 44, 179; voting by, during war, 47; burial of indigent, 119; exemption of, from taxation, 148.
 Soldiers' Home, 91.
 Soldiers' Orphans' Home, 91.
 Solomon, D. H., 208.
 Southerners, settlement of Iowa by, 10.
 Sovereignty, location of, 174.
 Spain, 13; territory gained by, 16; Louisiana ceded to France by, 16.
 Spanish land grants, 9.
 Speaker of the House, powers and duties of, 68; succession of, to governorship, 77.
 Specie payments, suspension of, 197.
 Speech, freedom of, 37, 175.
 Spirit Lake Massacre, 8.
 Springer, Francis, 208.
 Squatter governments, 22.
 Squatters, attitude of, toward law, 23; character of, 23, 24.
 State, limitation on power of, 40, 44; limitation upon debts of, 56; claims against, 85.
 State Fair, 159.
 State Government, inauguration of, 31.
 State Institutions, Board of Control of, 81.
 State Librarian, 81.
 State officers, number of signers necessary for nomination of, 49, 50; impeachment of, 77; appointment of, 88.
 Statehood, first steps toward, 28, 29.
 Stock Breeders' Association, Improved, 107.
 Street Commissioner, 133.
 Streets, vacating of, 55, 184.
 Streets and Public Improvements, Superintendent of, 136.
 Style of laws, 179.
 Succession, law of, 76, 77.
 Suffrage, difference between citizenship and, 43; right of States to regulate, 44; qualifications for, 44; disqualifications for, 44; right of, 178, 179; amendment to Constitution, relative to, 206.
 Superintendent of Indian Affairs, 27.
 Superintendent of Public Instruction, 124; powers and duties of, 154, 155.
 Superior Courts, powers and jurisdiction of, 111, 112; establishment of, 134.
 Supervisors, Board of, 81, 117, 118, 119, 164; election and meetings of, 117, 118; powers and duties of, 118, 119; establishment of townships by, 126, 127; taxes levied by, 146; equalization of assessments by, 148.
 Supreme Court, oath of office administered by justice of, 76; impeachment of judges

- of, 77; reference to, 87; functions and jurisdiction of, 112, 113; judges of, 190; election of judges of, 190, 191; jurisdiction of, 191; salaries of, 191; first election of judges of, 205.
- Supreme Court (Territorial), composition of, 27.
- Survey, first, in Iowa, 23.
- Swamp Land Grant, 153.
- Swedes, immigration of, to Iowa, 11.
- Tama County, Indians in, 8.
- Tax Commission, purpose of, 106, 107.
- Taxation, listing of property for, 128, 146, 147; justification for, 145; difficulty of problem of, 145, 146; process of, 146; exemptions from, 148; rate of, 148, 149; need of reform in, 149, 150.
- Taxes, laws relative to, 55; equalization of, 127; kinds of, 146; collection of, 149; assessment and collection of, 184.
- Taylor, Zachary, 23.
- Teachers, training of, 157.
- Teachers' Association, State, 107.
- Teachers' College, State, 92, 157, 158.
- Tennessee, 10.
- Territorial Governor, 26, 27.
- Territorial Judiciary, 27.
- Territorial Legislature, 27.
- Todhunter, Lewis, 208.
- Town plats, vacating of, 55, 184.
- Towns, founding of, in Iowa, 9, 10; incorporation of, 55, 184; limitation upon debts of, 56; government of, 129-140; population of, 131; officers of, 133.
- Township clerk, 127.
- Township officers, resignation of, 119; list of, 127; powers and duties of, 127, 128.
- Township Trustees, 127, 164; duty of, 127; taxes levied by, 146; equalization of assessments by, 148.
- Townships, establishment of, 118, 126, 127; government of, 126-128; powers of, 127; elements lacking in government of, 129.
- Traer, J. C., 208.
- Treason, definition of, 38, 39, 176.
- Treasurer (Municipal), 131, 133.
- Treasurer of State, powers and duties of, 85, 86; member of Executive Council, 86; reference to, 190, 204.
- Trial, freedom from second, 38; right of, 175.
- Tuberculosis, State Sanatorium for the Treatment of, 90, 91.
- United States, land grants confirmed by, 9; acquisition of Iowa by, 17.
- United States Senator, nomination of, 50; appointment of, 81.
- University, State, 92, 199; School of Education at, 158; location of, 203.
- University Grant, 153.
- Urn, E. M., 23.
- Vacancies, filling of, 203.
- Van Buren, Martin, 20.
- Vermont, 10.
- Veterinary Surgeon, State, 87; data relative to, 98.
- Veto power, 80, 182.
- Vinton, College for Blind at, 93.
- Virginia, 10.
- Vital Statistics, State Registrar of, data relative to, 104.
- Vote, right to, 43.
- Voting, duty of, 45; methods of, 46.
- Voting Machine Commissioners, Board of, data relative to, 101.
- Wabasha, visit of Dragoons at village of, 19.
- Wapello County, 63.
- War debts, 194, 195.
- Ward, Duren J. H., statement by, 7.
- Warren, William H., 208.
- Ways and Means, Committee on, 69.
- Weather and Crop Service, Director of, 87; data relative to, 96.
- Webster County, 128, 147.
- Weights and Measures, data relative to, 96.
- Weld, Laenas G., statement by, 14.
- Whigs, victory of, in 1854, 32.
- White, Dr., statement by, 2.
- William and Mary, Bill of Rights signed by, 35.
- Wilson, James F., 208.
- Winchester, S. G., 208.
- Winnebago Indians, 8.
- Wisconsin, mounds in, 7; Indian war in, 8.
- Wisconsin, Territory of, Iowa country as part of, 20; reference to, 151.
- Wisconsin River, exploration of, by Nicollet, 14.
- Women, efforts to extend suffrage to, 44; rights of, in school elections, 44; offices open to, 121, 124.
- Woodbury County, 63.
- Wright County, 128, 147.
- Young, James A., 208.

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